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Ontario. Royal Commission on Book  
Publishing.  
Hearings 1971















ONTARIO

Government  
Publications

563

72

## ROYAL COMMISSION ON BOOK PUBLISHING

Hearings

Mr. Richard Rohmer, Q.C.

Chairman

Dr. Marsh Jeanneret

Commissioner

Mr. Dalton Camp

Commissioner

-----  
Mr. Robert Fleming

Executive Secretary

### APPEARANCES:

R. E. Holland, Q.C.

Commission Counsel

A. O'Donnell

Commission Counsel

Joseph Sedgwick, Q.C.)

and )

P. H. H. Ridout, Q.C.)

for Metropolitan Toronto  
News Company & Affiliates

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Hearings held at 252 Bloor Street 21  
West, Toronto, Ontario, July 19, 1971  
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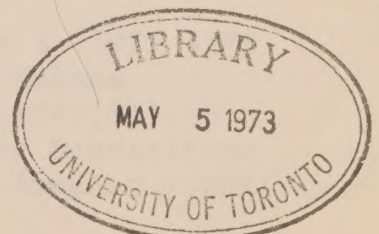
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Toronto, Ontario

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Toronto, Ontario,  
July 19, 1971.

---The hearing commenced at 10.00 a.m.

THE CHAIRMAN: Ladies and gentlemen,  
we will continue with the hearings. Mr. Holland?

MR. HOLLAND: Mr. O'Brien?

FREDERICK O'BRIEN, Resumed

EXAMINATION BY MR. HOLLAND (cont'd):

Q. Mr. O'Brien, there were  
one or two further questions that I wished to ask  
you. As I understand your evidence, following  
the purchase in Kitchener you attended in New York  
to see the publishers?

A. That is correct.

Q. And when you spoke to the  
various publishers there, what information did  
you receive from them as to any effort by  
Mr. Molasky to take over their line for the Kitchener  
area?

A. Well, I would have to take  
them individually. I can give you a couple of cases.  
We went to see a Mr. John Hayes who is the  
President of the Kable News Company, one of the  
distributors here, and he informed us that Mr. Allan  
Molasky had told him that they had seven or eight  
franchises in their back pocket for Kitchener.

Q. Just a moment, that is  
Mr. Allan Molasky?







1 A. Mr. Allan Molasky.

2 Q. That is Mark Molasky's  
3 father?

4 A. Yes -- had seven or eight  
5 franchises in their hip pocket for Kitchener and  
6 they had better get on the band wagon if they  
7 wanted any distribution there. When we informed  
8 Mr. Hayes --

9 Q. What did they mean by they  
10 wouldn't have any distribution?

11 A. Well, if Kable didn't come  
12 along with them then I assume they would mean that  
13 the Molasky group would then not handle them in  
14 Kitchener and we would be out of business so they  
15 would be out of that field. So, Mr. Hayes, when  
16 he heard what Mr. Bramall and I had to say, that  
17 this was not true, he immediately made a decision  
18 right then that he would stay with the Kitchener  
19 News Company and he was quite perturbed to think  
20 that Mr. Molasky had stated that he had seven or  
21 eight franchises when he didn't.

22 Q. Did this occur on more than  
23 one occasion?

24 A. Yes, when we visited  
25 Mr. Larry Mannheimer at Publishers' Distribution  
26 Corporation we found the same thing and Mr. Mannheimer  
27 once again made a definite statement that he would  
28 stay with the Kitchener News Company.

29 Q. Now, to switch the subject,  
30 do various Ontario geographical wholesalers get



1 different rates from the publishers and from the  
2 distributors, in your experience?

3 A. Yes. If you apply and  
4 you have some reason -- as an example, in Hamilton  
5 I get a better book rating in Hamilton than I do  
6 in Brantford.

7 Q. Why would that be?

8 A. Because of a greater volume or be-  
9 cause ~~I might~~ have a little more pressure to exert  
10 because of size.

11 DR. JEANNERET: Would he explain  
12 what he means by "book rate"?

13 THE WITNESS: Well, while I buy my  
14 paperback books in Hamilton from most of my  
15 suppliers at 46 per cent off, our company in  
16 Brantford which is a smaller company and has lower  
17 volume I would buy my books from most publishers  
18 at 44 per cent off.

19 DR. JEANNERET: You are using the  
20 word "publishers" here.

21 THE WITNESS: Yes, for example,  
22 Signet ~~books~~, we buy direct from the American  
23 Library which is the publisher. Bantam books  
24 we would buy from Select Magazines Incorporated.

25 DR. JEANNERET: Would the publishers  
26 operating in Canada very often, as subsidiaries  
27 or as exclusive agencies, have differential discount  
28 rates here on the basis of which they would supply  
29 books to you or other wholesalers, as far as you  
30 know?





1 THE WITNESS: Yes, there would be  
2 differentials in rates.

3 DR. JEANNERET: Differing on what  
4 basis?

5 THE WITNESS: Primarily I would think  
6 on volume, primarily on volume.

7 DR. JEANNERET: It would be a single  
8 discount schedule, as what it is sometimes known as?

9 THE WITNESS: Yes, but you just  
10 don't get this automatically, you have to apply for  
11 it.

12 MR. HOLLAND: Mr. Chairman, those  
13 are all the further questions that I have of this  
14 witness. Mr. Sedgwick may have some questions for  
15 you.

16  
17 CROSS-EXAMINED BY MR. SEDGWICK:

18 Q. Mr. O'Brien, I know that  
19 you told Mr. Holland about what I might call the  
20 O'Brien empire but am I right in saying that you  
21 and your family and connections have an interest in  
22 five different wholesaling distributors?

23 A. I would list them -- I  
24 own Hamilton, my dad owns Brantford, my dad owns  
25 Ottawa, my brother-in-law owns St. Catharines and  
26 I have 25 per cent interest in Kitchener.

27 Q. So that wholly or partly  
28 you have an interest, a family interest, in five  
29 different distributors and I believe you gave the  
30 figure but it escapes me: Do you know what the







1 total figure is of gross of those five, adding  
2 them together?

3 A. Well, I could add them here  
4 for you if you wish.

5 Q. Well, I would be satisfied  
6 with an approximation.

7 A. Do you wish me to include  
8 all of Kitchener in this figure?

9 MR. HOLLAND: Mr. Chairman, with  
10 my friend's permission we have prepared a list,  
11 showing the Ontario Geographical Wholesalers  
12 showing the location of the head office of these  
13 wholesalers, showing the approximate gross and  
14 showing the percentage of the Ontario total.  
15 I have given a copy of this list to Mr. Sedgwick  
16 and it might be an appropriate time now to have  
17 the list marked as the next exhibit because it may  
18 assist Mr. Sedgwick in his examination of this  
19 witness.

20 MR. SEDGWICK: That would be  
21 exhibit what?

22 THE SECRETARY: Exhibit 25.

23 THE CHAIRMAN: This will be  
24 Exhibit 25 and it is a list of the wholesaling  
25 companies showing the locations, approximate gross  
26 and percentage of material to total.

27 ---EXHIBIT NO. 25: List of the wholesaling  
28 companies showing the locations,  
29 approximate gross and percentage  
of material to total.





1 THE CHAIRMAN: And the year allocated  
2 to this, Mr. Holland?

3 MR. HOLLAND: The last fiscal year  
4 for these companies in 1970 or 1971, as the case  
5 may be.

6 MR. SEDGWICK: Q. Have you a copy  
7 of that list in front of you?

8 A. No, I do not.

9 Q. Oh, I am sorry.

10 A. I have now.

11 Q. You now have and the first  
12 one you have in interest in would be General News  
13 and Novelty, is that correct -- Brantford?

14 A. That is correct.

15 Q. With about 2.36 of the total?

16 A. That is correct.

17 Q. And Kitchener News with  
18 about 4.86, is that correct?

19 A. I assume the figures are  
20 correct.

21 Q. I am proceeding on the  
22 same assumption, I have no way of checking them.  
23 Then your next one would be --?

24 A. Mountain City.

25 Q. Mountain City with 6.09?

26 A. Correct. And National --

27 Q. National of Ottawa with  
28 8.26. Then there is Seaway of St. Catharines, is  
29 that right?

30 A. Yes.







1 Q. 4.38?

2 A. I might add that I have  
3 nothing to do with the management of Seaway News  
4 in any way, shape or form.

5 Q. I see. It looks to me as  
6 though it would be something like 28 per cent of  
7 the total in Ontario. Would you agree with that?

8 MR. HOLLAND: I think 22.30,  
9 Mr. Sedgwick.

10 MR. SEDGWICK: I am not very good  
11 at addition.

12 THE CHAIRMAN: While we are on the  
13 point, Mr. Sedgwick, I wonder if you could get  
14 through the witness his interests in these lists?

15 MR. SEDGWICK: I did that, I think,  
16 in opening but I would be delighted to do it again.

17 Q. You heard what the Chairman  
18 said. Taking the first, General News and Novelty?

19 A. That is owned by my father  
20 and I am responsible for its operation. That is  
21 my only interest in it.

22 / Q. And in Kitchener News  
23 you have 25 per cent, is that correct?

24 A. Correct.

25 Q. And then we come to  
26 Mountain City News?

27 A. I have 100 per cent.

28 Q. And then we come to National  
29 News?

30 A. I have no interest, I am







1 responsible to my father for the management.

2 Q. And the next one is Seaway  
3 News of St. Catharines?

4 A. I have no interest and no  
5 management at all.

6 Q. It is run by your brother-  
7 in-law, is that right?

8 A. Yes.

9 Q. Owned and operated by your  
10 brother-in-law?

11 A. Yes.

12 Q. Then, Mr. O'Brien, if we  
13 may come back to the time when your group acquired  
14 control of Kitchener, you have already said that  
15 prior to the closing of the transaction you did  
16 not communicate with any of the distributors asking  
17 for their permission to make the purchase?

18 A. That is correct.

19 Q. And when the deal was  
20 concluded and you got in touch with Triangle,  
21 I believe that Triangle -- was it Mr. Lichtenberg  
22 with whom you communicated?

23 A. Mr. Lichtenberg indirectly  
24 asked Mr. Hill to call him and then I heard from  
25 Mr. Hill and then I phoned Mr. Lichtenberg, yes.

26 Q. And you were told, I believe,  
27 that Triangle was not agreeable to permitting their  
28 franchise, if we may call it that, to continue  
29 with Kitchener News for three reasons, isn't that  
30 correct?





1                                   A.           It was not told in those  
2 terms. I was told that the TV Guide franchise  
3 was not for sale.

4                                   Q.           Was not for sale, yes.  
5 And the three reasons why they didn't like the  
6 deal were, firstly, that they thought they should  
7 be consulted in advance?

8                                   A.           Yes.

9                                   Q.           And secondly they were not  
10 enamoured of Mr. Terry Cosgrove as manager of  
11 Kitchener?

12                                  A.           That is correct.

13                                  Q.           And Mr. Cosgrove had been  
14 Manager of Metro Toronto?

15                                  A.           Correct.

16                                  Q.           So, Triangle would, of  
17 course, know him quite well?

18                                  A.           That is correct.

19                                  Q.           And the third reason -- and  
20 I suggest to you it was probably the most important  
21 reason -- was that Triangle objected to their  
22 distribution being in the hands of a company which  
23 was in part controlled by a competitor, Gordon & Gotch?

24                                  A.           That is correct.

25                                  Q.           And as to the Gordon & Gotch  
26 interest in Kitchener, I believe Gordon & Gotch  
27 had 20 per cent themselves, is that correct?

28                                  A.           That is correct.

29                                  Q.           And then there was a  
30 Mr. Smith, Mr. Will Smith?







1 A. Yes.

2 Q. Who is Mr. Smith?

3 A. Mr. Smith is the President of  
4 Gordon & Gotch (Canada) Limited.

5 Q. So, if we add Gordon & Gotch's  
6 personal investment to that of the present  
7 Gordon & Gotch would have a 30 per cent interest?

8 A. If you wish to put it in  
9 those terms. I might add, sir, that Gordon & Gotch  
10 have indicated to us from the start that they had  
11 money they wished to invest in Canada and wanted  
12 no part of the management of the company.

13 Q. I understand but still they  
14 were competitors with Triangle?

15 A. Yes, that is right.

16 MR. CAMP: What way were they  
17 competitors?

18 THE WITNESS: Well, it is hard to  
19 say how they are competitors but we buy from all  
20 these people and they compete for space on the  
21 newsstands for the various products that they have.

22 MR. CAMP: Are they wholesalers  
23 for American publications?

24 MR. SEDGWICK: I believe mostly  
25 U.K. publishers. They have national distribution?

26 THE WITNESS: They have national  
27 distribution for British products and they will take  
28 on American distribution in Canada.

29 MR. SEDGWICK: Q. In any event they  
30 compete for space in the racks?







1 A. Yes.

2 Q. So that they would be in  
3 direct competition with other firms such as  
4 Triangle?

5 A. Oh, yes.

6 Q. Very well. Then, may I turn  
7 to another matter? Were you present when  
8 Mr. Romanez gave his evidence?

9 A. Yes.

10 Q. And he went into some detail  
11 as to the method of distribution of Metro Toronto  
12 News. Would you agree that Kitchener distributes  
13 in much the same way?

14 A. Basically, yes.

15 Q. Yes, basically and the  
16 important thing is, of course, profitability --  
17 you want to sell the magazines and paperbacks  
18 that are in public demand, isn't that it?

19 A. That is absolutely correct.

20

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1 Q. And specifically, as to the  
2 distribution of Canadian magazines, did you recall  
3 that Mr. Romanez was asked about that, and I am  
4 looking at page 3041 of the transcript. Mr.  
5 Holland asked:

6 "I think you were also asked to  
7 get for the Commission the  
8 percent of Canadian publications  
9 broken down between magazines  
10 and paperbacks as opposed to other  
11 than Canadian publications  
12 distributed by Metro Toronto News  
13 Company."

14 Mr. Romanez said:

15 "Approximately 5 per cent."

16 Would you agree that that figure would be an  
17 approximation?

18 A. Yes, I would have to agree  
19 as a guesstimate.

20 DR. JEANNERET: Then we accept  
21 Harlequin, I think.

22 THE WITNESS: He referred to  
23 magazines here, I think, and not books.

24 MR. SEDGWICK: Q. The next  
25 question to Mr. Romanez:

26 "Can you break that down between  
27 magazines and paperbacks?"

28 And Mr. Romanez said:

29 "5 per cent magazines and about  
30 0.1 per cent paperbacks."







1 A. If you eliminate Harlequin  
2 books, I would agree with that .01, but, except  
3 in our educational field where we do a high  
4 percentage of our total business in Canadian  
5 paperbacks, which are educational, but as far  
6 as our mass market on the newsstands, Harlequin  
7 alone represents 10 to 11 per cent of our total  
8 paperback sales.

9 Q. Where is Harlequin published?

10 A. Their head office is here  
11 in Toronto but they are published in Welland.

12 Q. Is it? Are the paperbacks  
13 published in Canada?

14 A. Yes, they are published and  
15 printed here.

16 Q. I see. Eliminating Harlequin,  
17 you would agree with his figures?

18 A. Except in the educational.

19 Q. Which is a special line, you  
20 don't put educational periodicals on your racks?

21 A. They are not mass market, no.

22 Q. We are talking here about  
23 mass market. Then, as to Canadian paperback  
24 publishers, how many of such do you deal with?

25 A. For mass market?

26 Q. Yes.

27 A. Not too many.

28 Q. Mr. Romanez said he only  
29 knew of one and that is a firm in which he had  
30 a 50 per cent interest, called Bolero, I think.





1 MR. ROMANEZ: Bodero.

2 THE WITNESS: Mass market  
3 Canadian publishers, we have handled specifically  
4 on occasion, MacLean Hunter Titles, but as a  
5 general rule, practically nil.

6 MR. SEDGWICK: Q. The reason  
7 that you and Metro Toronto do not distribute  
8 many Canadian paperbacks is because there just  
9 aren't any, is that the truth?

10 A. No, it is not the truth.  
11 I agree with Mr. Romanez' statement later in  
12 the ball game, that first of all, many of the  
13 paperbacks published in Canada are not  
14 mass-market orientated and, in addition, they  
15 are of an odd-size.

16 Q. Yes, he said that.

17 A. They do not lend themselves  
18 to mass market sale and, in addition, they do  
19 not fit, as a general rule, into the standard  
20 size paperback rack.

21 Q. I see. And is there  
22 difficulty with them that many of them are not  
23 fully returnable?

24 A. Yes. There is that case.  
25 I may say, too, due to limited press runs, many  
26 of them are over priced.

27 DR. JEANNERET: Can you name  
28 any that are not returnable, Mr. Sedgwick?  
29 Can you name any lines which are not returnable?

30 THE WITNESS: I am not familiar







1 directly. I could obtain the information for  
2 you but I just don't have it with me.

3 DR. JEANNERET: The McLelland  
4 Canadian Best Seller Library was mentioned there  
5 as a rather important effort in this direction.  
6 Mr. Romanez commented on it and perhaps this  
7 witness would too.

8 THE WITNESS: The Canadian Best-  
9 seller, we did very well on the Diefenbaker  
10 title and we did very well on some of their  
11 sports titles, but once again, we promoted this  
12 line, I might say, we promoted it rather well,  
13 but I think they ran into, the same as many people  
14 do in Canada, that they had to produce either  
15 too many copies which they had to take returns  
16 at from the start and they were in economic trouble  
17 on the line. Let me say, I think the Canadian  
18 Best Seller failed, not because of the cooperation  
19 of the Canadian wholesalers, but because of  
20 economic conditions they went under, in my view.

21 MR. SEDGWICK: Q. That is what  
22 Mr. Romanez said too.

23 A. Yes.

24 Q. May I come to the meeting  
25 of June 10th at which time you said Mr. Molasky  
26 made some threats, and I am looking at your  
27 evidence at page 3163 and you said:

28 "One, the first point was that  
29 if we attempted to move into  
30 Toronto with any of the publications





1 which they had franchises for  
2 in the Toronto area ---"

3 "Q. By 'we' you mean Kitchener  
4 News Company?

5 "A. Yes. Kitchener News Company,  
6 I suppose it refers to me out of  
7 Mountain City out of Hamilton. If  
8 we attempted to move into  
9 Toronto, then, they would  
10 immediately move whatever  
11 publications they could get into  
12 Vancouver, Hamilton,  
13 Brantford, St. Catharines  
14 and Hamilton."

15 Mr. O'Brien, may I put it to you  
16 that neither side took these threats seriously?

17 A. I am sorry, sir, but I took  
18 that threat very seriously.

19 Q. Let us examine it: Firstly,  
20 in the context of what you said, I take it  
21 you threatened to move into Metro Toronto territory,  
22 isn't that right?

23 A. That is not right at all.

24 Q. What did happen?

25 A. I don't know the terms of  
26 your question: "What did happen?" Where did  
27 this take place?

28 Q. This is your language:  
29 "If we attempted to move into  
30 Toronto with any of these







1 publications, they would move  
2 against you",

3 Is that what you said?

4 A. There is no doubt that we,  
5 as partners in the Kitchener venture, had discussed  
6 the possibility of moving into Toronto, no doubt  
7 we discussed this, but we came to a firm decision  
8 that it would be asinine for us to attempt it  
9 even.

10 Q. That is what I put to you.  
11 In order to move into Toronto, you would have  
12 to get the franchises of a number of North  
13 American distributors?

14 A. In all probability, yes.

15 Q. For the Toronto area?

16 A. Yes.

17 THE CHAIRMAN: You came to this  
18 conclusion. Was this a matter which you discussed  
19 at the meeting which you had?

20 THE WITNESS: This was a private  
21 meeting of the partners of the organization when  
22 we were discussing what we were going to do about  
23 Kitchener.

24 THE CHAIRMAN: Was that part, in  
25 any way, of the discussion with Mr. Molasky  
26 on June the 10th?

27 THE WITNESS: No.

28 THE CHAIRMAN: I thought you had  
29 indicated that.

30 MR. SEDGWICK: No.

Q. In order for Mr. Molasky's





1

2

firm to move into your territory, he would have  
to get franchises which you had, isn't that correct?

4

5

A. He was attempting to take over  
the supermarkets without Canadian franchises.

6

7

8

9

10

11

There was evidence introduced here earlier that  
he went after the supermarkets in Kitchener to  
service them, put in new racks and whatnot, and  
service them with all the lines that Metro  
had in the Toronto area. He did not have the  
franchise, but he would move in.

12

13

Q. Could they do that without  
the consent of the distributors?

14

15

A. They sure can legally, or  
I understand so.

16

17

18

Q. So that legally you could  
move into Toronto with any of the lines that you  
have in Kitchener?

19

20

21

22

A. Yes, but I would not have  
the copies available. I don't have enough  
copies to move into Toronto, but Toronto has  
enough copies to move into Kitchener.

23

24

25

26

27

DR. JEANNERET: Do I understand  
that the reason it would be possible for them  
to move into the chain stores outside Toronto  
would be that they would sell from a central  
purchasing office in Toronto into the territory?

28

29

30

THE WITNESS: No. Kitchener  
is a little different than most communities.  
Most of the supermarket business in Kitchener







1 are local people. It so happens that Dominion  
2 and Loblaws and Steinbergs are not big in the  
3 Kitchener area. They are local people with head  
4 offices locally in Kitchener. This is a situation  
5 I don't know exists anywhere else in the country.  
6 The local chains are the big chains.

7 DR. JEANNERET: I am interested  
8 in the fact that you suggest that it would be --  
9 you use the word "legal" -- I suppose it would  
10 be in keeping with tradition, or something like  
11 that. I am not putting words in your mouth and  
12 I don't intend to -- for the wholesaler in Toronto  
13 to move into another territory altogether, provided  
14 he was selling chain stores? I don't follow  
15 that.

16 THE WITNESS: No. Could I give  
17 you a little history on this? At one time  
18 wholesalers, both in the United States and Canada,  
19 had firm contracts with publishers and they gave  
20 a list of the individual little towns where they  
21 would have a franchise. I understand that this  
22 was broken some years ago, particularly by the  
23 Federal Trade Commission in the United States,  
24 who said this was no longer legal. These  
25 publishers in the United States who operate in  
26 Canada, still feel that they are subjected to the  
27 Federal Trade Commission's regulations, so these  
28 contracts we previously had were pretty well  
29 null and void, except maybe in the case of  
30 McFadden where it had a 30-day cancellation clause.





1 THE CHAIRMAN: This was affected  
2 by American federal regulations, but in Canada ---

3 THE WITNESS: What I am saying  
4 is that they take the attitude that they don't  
5 want to do outside of the United States what  
6 they are not allowed to do in Canada. I think  
7 they imposed this regulation on themselves, I  
8 don't mean to suggest to you that the American  
9 government is controlling them. I think they  
10 take unto themselves the fact they don't want  
11 to operate outside of the United States any  
12 differently than they do in Canada, so that these  
13 types of contracts just went out the window.  
14 Therefore, if Metro Toronto now wished to move  
15 into Toronto, no publisher really would have  
16 legally in the United States any objection.

17 DR. JEANNERET: Objection or  
18 right to stop?

19 THE WITNESS: Right to stop.

20 DR. JEANNERET: They could take  
21 objection and, in fact, they did, in a parallel  
22 situation. What I mean by this is that the  
23 national distributor can decide who is going to  
24 sell his books in a given area.

25 THE WITNESS: That is correct.  
26 Possibly, if I could get enough copies of TV  
27 Guide from other places, I could sell them in  
28 the Kitchener area and it would be all right, but  
29 I probably couldn't get the copies.

30 DR. JEANNERET: Without great







1 pressure being brought to bear on you?

2 THE WITNESS: Yes.

3 THE CHAIRMAN: In connection with  
4 the statement you made a minute ago, wouldn't  
5 they still have the right to terminate the  
6 so-called franchises where you had your distribution  
7 of TV Guide?

8 THE WITNESS: Yes.

9 THE CHAIRMAN: This would be  
10 some kind of disciplinary action, wouldn't it?

11 THE WITNESS: This is right.  
12 If I had copies in Kitchener, I could be subject  
13 to some action by them in other places.

14 THE CHAIRMAN: Would you also  
15 state what you mean when you say that you don't  
16 have the copies, but Metro would have the copies,  
17 to move into your area?

18 THE WITNESS: Of course, I draw  
19 5000 Readers' Digests and they draw 50,000 Readers'  
20 Digests, so they could obtain enough copies to  
21 sell in the Kitchener area, where I could not  
22 get enough copies to sell in the Toronto area.

23 THE CHAIRMAN: Why couldn't you  
24 call and say "I want to have 50,000 copies. Please  
25 send them"?

26 THE WITNESS: The publisher  
27 would be hesitant because he doesn't like returns  
28 and he would want to know what I wanted it for.  
29 I don't think I would have very much chance  
30 of getting it unless they gave me the franchise.





1 If I applied for the franchise and got it,  
2 then they would give me the copies, if I could  
3 prove to them that I would move into the Toronto  
4 area and do a good job in servicing the accounts.

5 THE CHAIRMAN: So what you would  
6 have to do, actually, is get the Toronto  
7 franchise?

8 THE WITNESS: That is probably  
9 what I would have to do.

10 MR. SEDGWICK: Q. It really  
11 hinges on returns. The distributor wants you to  
12 have the number of copies that you might sell  
13 because he wants to minimize the number that  
14 comes back, isn't that correct?

15 A. Yes.  
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1 Q. Following on those questions,  
2 do you at the present time distribute the McFadden-  
3 Bartell line in Kitchener?

4 A. We do not have the franchise  
5 for it.

6 Q. But do you distribute some  
7 of their magazines and periodicals?

8 A. Yes, we took some steps  
9 to acquire copies from our other agencies to sell  
10 in the Kitchener area.

11 Q. Yes, that is to be specific,  
12 you ordered the copies for Mountain City and then  
13 shipped them into Kitchener, is that right?

14 A. We didn't order them:  
15 they sent us an allotment of copies that we sell  
16 and we took some of what we considered some excess  
17 copies and moved them into Kitchener, yes.

18 Q. So, that there is no hard  
19 and fast restriction on these so-called territorial  
20 franchises?

21 A. That is correct.

22 Q. And on the whole subject  
23 of rating, I suppose it is a somewhat cut-throat  
24 business, do you know a Mrs. Blanche Fell who  
25 owns the Wentworth agency?

26 A. Miss Blanche Fell is the  
27 manager of the Wentworth News Agency Limited in  
28 Hamilton. It is owned by the Fensky family  
29 of Milwaukee, Wisconsin.

30 Q. And did the Wentworth Agency





1 at one time have the franchise for Dell paperbacks?

2 A. Yes, they certainly did.

3 Q. And did you manage to raid  
4 that franchise on behalf of Mountain City?

5 A. No, I did not, Dell  
6 Publications came to us and asked us to take on  
7 the franchise because we have a much superior  
8 service and we also have the educational business  
9 which is a big part of the Dell franchise and they  
10 asked us to take it on because we can do a  
11 better job for them.

12 Q. Precisely.

13 THE CHAIRMAN: Mr. Sedgwick, before  
14 you go on. Before we go beyond this McFadden-  
15 Bartell Publications you are taking surplus copies?

16 THE WITNESS: We are taking  
17 surplus copies out of some of our agencies.

18 THE CHAIRMAN: How long have you  
19 been doing this?

20 THE WITNESS: Since July 6th.

21 THE CHAIRMAN: And do you know whether  
22 McFadden-Bartell are aware of this?

23 THE WITNESS: We have not told them.  
24 Their representative is here, he knows now.

25 MR. SEDGWICK: These meetings have  
26 their uses.

27 Q. So, Mr. O'Brien, the  
28 distributors of the Dell line decided that you,  
29 that is Mountain City, could do a better job than  
30 the Wentworth Agency and they just moved their





1 franchise over, is that correct?

2 A. Yes, but I am sure they did  
3 it after long consideration.

4 Q. So, that is precisely what  
5 happened in connection with Triangle and Metro  
6 Toronto: they decided that Metro Toronto could  
7 do a better job and they moved the Triangle franchise  
8 over to Metro Toronto?

9 A. You said, it, sir, I didn't.

10 Q. No, but I say the situation  
11 seems parallel, doesn't it?

12 A. Once again you said it.

13 Q. I will put it to you this  
14 way.

15 A. There is a different  
16 situation here inasmuch as both Wentworth News  
17 and Mountain City News are local companies.  
18 Kitchener News is local in the Kitchener area  
19 and certainly Metro Toronto is not. They operate  
20 from Toronto into Kitchener: we operate locally  
21 in Kitchener. Mountain City News Company Limited  
22 and Wentworth News Agency Limited are both local  
23 Hamilton companies. Both give local service so  
24 I can't say if these situations are parallel.

25 Q. They may not be parallel  
26 but you will agree with me, I think, in this:  
27 the decision as to who should distribute Dell books  
28 in Hamilton is made by the North American distributor  
29 of Dell books, it is his decision?

30 A. That is correct.





1 Q. Precisely, and that  
2 distributor decided to move from Wentworth to  
3 Mountain City and I suppose you were duly grateful?

4 A. I was duly grateful.

5 DR. JEANNERET: Can I ask this for  
6 the record now? I understand it is clearly  
7 established that Dell has made a decision to refuse  
8 to fill orders received from Wentworth and decided  
9 to fill orders received from you?

10 THE WITNESS: That is correct.

11 DR. JEANNERET: It is an interesting  
12 question but they have that privilege?

13 MR. SEDGWICK: Who has it?

14 DR. JEANNERET: Dell.

15 MR. SEDGWICK: Q. I suppose Dell  
16 distribute all throughout Ontario, do they?

17 A. Yes.

18 Q. And I suppose they distribute  
19 to Metro Toronto News also?

20 A. Yes.

21 Q. Do you know a company called  
22 the Ace News Company?

23 A. Yes, I certainly do.

24 Q. Do you know a Mr. Barrish  
25 of that company?

26 A. Very well.

27 Q. Is he the president?

28 A. Yes, he is.

29 Q. Do you distribute the  
30 products of Ace News in your Hamilton territory?





1 A. Yes, we do.

2 Q. How long have you been  
3 distributing Ace in Hamilton?

4 A. We have distributed Ace  
5 in the country territory outside of the City of  
6 Hamilton for many, many years. In the City of  
7 Hamilton we have been distributing it only  
8 for the last two or three months.

9 Q. And how did that come about,  
10 Mr. O'Brien? Let me put it to you -- these are  
11 my instructions -- that you threatened Mr. Barrish  
12 that unless you were given the distribution of  
13 Ace in Hamilton City you would not distribute Ace  
14 in any other territories that you control?

15 A. That is absolutely incorrect.

16 Q. And how did it come that  
17 you finally got the Ace distribution in Hamilton?

18 A. Because the Ace News Company  
19 and Simon and Shuster Company which is pocket  
20 books, amalgamated their circulation departments.  
21 We were the distributors for Simon and Shuster  
22 and as they did not wish to have two distributors  
23 in Hamilton they transferred the Ace part of the  
24 franchise to the Mountain City News Company so  
25 that they would have one distributor in the  
26 Hamilton area for both lines.

27 Q. That is, they transferred  
28 it from --?

29 A. From Wentworth News to  
30 Mountain City News.





1 Q. You will agree then with  
2 Mr. Romanez, that no distributor likes to have  
3 two wholesalers in the same territory?

4 A. That is correct.

5 Q. Because it complicates the  
6 whole business of returns?

7 A. Right. I might say it has  
8 been difficult for us over the years where we had  
9 Ace outside the city and not in the city  
10 because our return personnel sometimes accepted  
11 Ace publications from city dealers when they  
12 should not have done so.

13 Q. Yes, that is right.

14 A. It has cost us money to do  
15 that.

16 Q. Precisely. And that decision  
17 also, that is, the decision to move the Ace  
18 franchise, if we may call it a franchise, from Wentworth  
19 to Mountain City would be made by the Ace directors,  
20 by the Ace management?

21 A. Yes. By the way, I would  
22 like to point this out for the record. I have  
23 been trying to buy the Wentworth News Company for  
24 many, many years. At the time that Dell switched  
25 their franchise from the Wentworth News to Mountain  
26 City News I advised the owners of the Wentworth  
27 News that if they would sell me the agency at that  
28 time I would pay them for the Dell franchise and  
29 I did the same thing at the time that Ace  
30 News decided to switch to the Mountain City News



1 Company, that I would pay them for the entire  
2 franchise.

3 The point I am trying to make  
4 here is that I could have exerted many pressures  
5 over the years on Wentworth News which I have not  
6 done and at no time did I apply for either of those  
7 franchises. The publishers came to me and asked me  
8 to take them: I did not apply to take them away.

9 Q. The publishers made the  
10 decision and decided that you could do a better  
11 job for them than Wentworth, that is fair, isn't  
12 it?

13 A. Yes.

14 Q. And you have already said  
15 it would seem that Triangle made the same decision?

16 A. You said it.

17 Q. Mr. O'Brien, something  
18 was said about monopolies and I suppose in a sense  
19 each geographical wholesaler has something close  
20 to a territorial monopoly of the periodicals  
21 that he distributes, isn't that right?

22 A. Yes, it would be close  
23 but I think it is a necessary part of the business  
24 to make it operate properly.

25 Q. That is what I was coming  
26 to, it is a necessary monopoly in order for the  
27 business to operate in the interests of the public,  
28 the wholesaler, the distributor and the publisher?

29 A. That is correct.

30 Q. A great deal has been said





1 about "clout". I think I know what it is about.  
2 Do you remember a meeting held in January of this  
3 year in Montreal, a meeting of a number of the  
4 Ontario wholesale distributors?

5 A. In reference to what, sir?

6 Q. Well, it was said to me that  
7 you were there and there was a sufficient -- I  
8 am sorry, it was September of 1970. It was said  
9 to me that you were there and there was some sort  
10 of a proposal that all the distributors should  
11 get together in order to increase the clout  
12 with the North American distributors and the  
13 publishers?

14 A. That is not correct, sir.  
15 There was a meeting held at which time some Canadian  
16 wholesalers were discussing the possibility of  
17 amalgamating and then going public, becoming public  
18 companies. These were for economic reasons.  
19 Now, we sat down at a meeting at that time also,  
20 Mr. Bramall and myself, at that time Mr. Cosgrove  
21 was General Manager of Metro Toronto and he was  
22 present at that meeting. We sat down and discussed  
23 the possibility of bringing Metro Toronto into this  
24 organization and at that time it was Mr. Allan  
25 Molasky who first coined the word "clout" to us  
26 and he informed us as to what clout he had with the  
27 publishers and in many ways and how he paid his  
28 bills and how he got prices et cetera, and also that  
29 meeting came to an end because Mr. Molasky informed  
30 us at that time that he would have to have control





1 of such a company because all of his enterprises  
2 he had full control and at that time Mr. Bramall  
3 and I decided that we would have no more of that.

4 Q. And nothing came of it,  
5 there was never an amalgamation?

6 A. There was never an  
7 amalgamation of any Canadian wholesalers and there  
8 hasn't been anything further on that.

9 Q. And as to prices -- and  
10 I don't want to go into them -- I take it from  
11 what you have said and from what Mr. Romanetz  
12 has said, it is a matter of negotiation between the  
13 wholesaler and the distributor as to the discount  
14 that you get, is that right?

15 A. That is correct, but  
16 also if a large wholesaler buys a small wholesaler it  
17 is a generally accepted principle from what  
18 I hear that when the small wholesaler is taken over  
19 he immediately obtains the prices that the large  
20 wholesaler got.

21 Q. Well, that would be,  
22 because the total volume increases, isn't that  
23 right?

24 A. Yes, but even though the  
25 company might not be closed down, even though, for  
26 example, if Metro Toronto News does not close down  
27 Sarnia and London and operates on as they are,  
28 they will obtain Metro prices.

29 Q. Because they are wholly  
30 owned --



1 A. I would assume that they  
2 would obtain Metro prices.

3 Q. Because they are wholly  
4 owned by Metro, is that right?

5 A. Which probably are better  
6 prices than what I get in Hamilton.

7 Q. But you don't know the prices,  
8 it is a trade secret, is it?

9 A. It is.

10 Q. But you do know that you get  
11 a better price in Hamilton because you have a  
12 larger volume than you get in Brantford, is that  
13 correct?

14 A. This is correct.

15 THE CHAIRMAN: Before you move  
16 away from that line, Mr. Sedgwick, Mr. O'Brien,  
17 were you present at this meeting in Montreal?

18 THE WITNESS: Yes.

19 THE CHAIRMAN: Were you present  
20 when the discussion took place at which Allan  
21 Molasky was present?

22 THE WITNESS: That is correct.

23 THE CHAIRMAN: And what did  
24 Mr. Molasky say to you about the way he does  
25 things? You mentioned this. What did he say?

26 THE WITNESS: He explained that  
27 because of his size in the United States and  
28 Toronto he could obtain better prices and he could  
29 make better terms of payment than what we could  
30 and if we came into his organization we would have





1 to do it in his manner.

2 THE CHAIRMAN: Did he explain how  
3 he achieved this?

4 THE WITNESS: No.

5 MR. CAMP: It would be because of his  
6 size?

7 THE WITNESS: Oh, yes.

8 MR. SEDGWICK: Q. On account of his  
9 volume?

10 A. Yes.

11 MR. CAMP: It was not just a case  
12 of the Ontario situation but the continental situation?

13 THE WITNESS: Yes.

14 DR. JEANNERET: What did he mean  
15 when he said that he could secure better terms  
16 of payment? Presumably he meant that he could  
17 have extended credit?

18 THE WITNESS: Yes, instead of 30 days  
19 maybe 60 days.

20 DR. JEANNERET: And he would  
21 presumably pass this on, then, to the wholesalers  
22 purchasing from him. This was the implication?

23 THE WITNESS: No, if we came to a  
24 large national corporation and went public, this  
25 was our thought, that we would get together a  
26 group of wholesalers and maybe form a new company,  
27 a national company and eventually go public. This  
28 is a commonly occurring practice.

29 THE CHAIRMAN: Did you understand  
30 what was being said, that the so-called clout, if





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Mr. Molasky was able to negotiate would apply  
equally to his Canadian operation?

THE WITNESS: Yes, I understood  
that.





1 THE WITNESS: Yes, I understood  
2 that.

3 MR. CAMP: In other words, you  
4 negotiate with the distributors a package  
5 price in the United States? Would that because  
6 of the volume, become the price in Canada?

7 THE WITNESS: Yes.

8 MR. SEDGWICK: Q. Do you know  
9 anything about this, Mr. O'Brien, about what  
10 he pays in the United States?

11 A. No, I don't.

12 Q. Then you don't know whether  
13 that price ---

14 A. I could give you a similar  
15 situation. A wholesaler in Columbus, Ohio,  
16 and the president was in the room, when he  
17 acquired Windsor, he immediately got the London  
18 prices for Windsor, and I assume the same would  
19 apply to Metro when they acquire any agencies,  
20 in other words, Columbus got better prices than  
21 Windsor, and when Mr. Sherer got Windsor, he was  
22 able to get better prices in Windsor because of  
23 Columbus, Battle Creek, Petosky and so on.

24 Q. I see.

25 DR. JEANNERET: These discounts  
26 might be in the case of paperbacks more attractive  
27 than the discounts available on Canadian paperbacks?

28 THE WITNESS: Better automatically,  
29 yes.

30 MR. SEDGWICK: I think those are







1 all my questions, thank you.

2 MR. CAMP: At the meeting at the  
3 Inn-on-the-Park on the 10th of June, did you  
4 begin your conversation by asking Mr. Molasky if  
5 he was prepared to make an offer for Kitchener?

6 THE WITNESS: Yes. At the start  
7 of the conversation, Mr. Allan Molasky and Mr.  
8 Mark Molasky, made a statement that neither Mr.  
9 Bramall or Mr. Grubb or I were clear on. He  
10 either said "I will give you \$50,000 for Kitchener  
11 more than you paid for it" -- that was at the  
12 start of the conversation.

13 MR. CAMP: He said that before?

14 THE WITNESS: Yes. I asked the  
15 question, "What do you mean by 'Kitchener', or  
16 would you buy Kitchener?". I wanted to clear  
17 this point in our minds and it was at that time  
18 he came out with he wouldn't buy Kitchener unless  
19 the other towns were sold, and then it would be  
20 at a reduced price.

21 MR. CAMP: There is a further  
22 caveat in that, I understand. He said he  
23 had to go back to his father, first thing? Or  
24 did he? Do you remember him saying that?

25 THE WITNESS: I just don't  
26 remember him saying that.

27 MR. CAMP: I believe he said that,  
28 he said he said that.

29 THE WITNESS: It is possible,  
30 but I don't really recollect.





1 MR. CAMP: How many employees in  
2 your Kitchener wholesaling operation were with  
3 Mr. Hill when you took it over?

4 THE WITNESS: Seven or eight,  
5 in that area.

6 MR. CAMP: How many do you have  
7 now?

8 THE WITNESS: I think we have  
9 reduced the staff by 4-1/2 people. A part-time  
10 person.

11 MR. CAMP: I would assume that if  
12 the franchise for distribution had gone elsewhere,  
13 nearly all those people in Kitchener would become  
14 redundant, if the franchise had gone elsewhere?

15 THE WITNESS: I would think so,  
16 yes.

17 MR. CAMP: By the nature of their  
18 work?

19 THE WITNESS: Drivers, and that  
20 sort of thing, we have in Kitchener, but I would  
21 certainly need driver personnel and I would have  
22 to add driver personnel. They would not be  
23 office personnel.

24 MR. CAMP: Why would there be  
25 drivers in Kitchener? Do you have drivers in  
26 Kitchener now for TV Guide distribution?

27 THE WITNESS: Yes. I am not  
28 just too sure -- do you mean if Kitchener News  
29 Company no longer existed ---

30 MR. CAMP: If it became part







1 of Metro News?

2 THE WITNESS: I am quite sure Metro  
3 would need more driver personnel in Kitchener  
4 than they now have, yes, I would suggest that.  
5 They might even have some base there. I would  
6 think this would be normal procedure. They would  
7 base some drivers there.

8 MR. CAMP: Do you have a service  
9 charge?

10 THE WITNESS: Yes, we do.

11 MR. CAMP: What is it?

12 THE WITNESS: It is \$1.

13 MR. CAMP: Do you have a similar  
14 one in Hamilton?

15 THE WITNESS: Yes, \$1.

16 MR. CAMP: Do you have -- you  
17 were interested in the London wholesaling operation  
18 in the sense that you were aware that it  
19 was for sale?

20 THE WITNESS: Yes.

21 MR. CAMP: Or could be sold?

22 THE WITNESS: As a matter of fact,  
23 the owner asked Mr. Bramall and myself, in Calgary,  
24 at a meeting that was held out there, of Canadian  
25 wholesalers, if we knew of any Canadians who  
26 would like to buy the agency, and we had two  
27 people lined up.

28 MR. CAMP: Any one of them part  
29 of your organization?

30 THE WITNESS: No.



1 MR. CAMP: It was not yourself?

2 THE WITNESS: No.

3 MR. CAMP: How far did you scout  
4 that possibility?

5 THE WITNESS: We had contacted  
6 these people and they were most interested, but  
7 were unable to get in touch with Mr. Halliley.  
8 They tried to.

9 MR. CAMP: Then the sale was made?

10 THE WITNESS: That is correct.

11 MR. CAMP: Did you talk with  
12 Mr. Halliley about that?

13 THE WITNESS: Yes, sir.

14 MR. CAMP: What was his explanation  
15 for the sale, he sold to Metro, did he?

16 THE WITNESS: I could not  
17 answer yes. I might embarrass Mr. Halliley.

18 MR. CAMP: We can ask him that.

19 We have here a list of the value of the various  
20 distributors as they relate in volume. In your  
21 experience, which is considerable, looking at this  
22 list here, and speaking in terms of clouting,  
23 would you sort of rate them in order of their  
24 volume in relation to your operations in Canada?

25 THE WITNESS: Of course, this  
26 depends on the size of TV Guide. For example, in  
27 Ottawa, TV Guide is about a 16,000-copy distribution  
28 per week. In the Hamilton area, including what  
29 Wentworth News sells and what we sell, it would  
30 probably be in the area of 62,000 to 65,000 a week,





1 so you have to consider in the Hamilton area I  
2 would have to say Triangle is number one, but  
3 in the Ottawa area, you know, I could not say  
4 that. Triangle would not be number one.

5 In the Hamilton-Brantford-Kitchener area, I would  
6 put Triangle number one and I would put Independent  
7 News number two. I would put Curtis Distributing  
8 number three and I would put Select Magazines  
9 number four.

10 MR. CAMP: Where would you put  
11 McFadden-Bartell?

12 THE WITNESS: Quite a way down  
13 the list. They would be behind Publishers  
14 Distributing Corporation. They would even be  
15 behind Gordon and Gotch because Gordon and Gotch  
16 have Life, and whatnot, which has become quite  
17 a valuable property.

18 MR. CAMP: I gather from that that  
19 your experience is somewhat different than Mr.  
20 Molasky's experience in terms of this question,  
21 because the value of the Toronto section of  
22 Triangle, I gather that Triangle is 60 per cent?

23 THE WITNESS: That would not be  
24 my experience, no.

25 MR. CAMP: When you rate them  
26 one, two, three, four ---

27 THE WITNESS: This is in terms  
28 of what we pay them.

29 MR. CAMP: That relates directly  
30 to the volume?







1 THE WITNESS: That is the part  
2 of the business I see, the volume. Our cheque  
3 going monthly to these publishers would be in  
4 that order.

5 MR. CAMP: Thank you. It is  
6 not unusual, I gather, to have wholesalers, the  
7 ownership of wholesale operations change in Canada?

8 THE WITNESS: Yes, there have  
9 been a number.

10 MR. CAMP: Of sales?

11 THE WITNESS: Yes.

12 MR. CAMP: Do you know this,  
13 that there was, as a result of a sale, a change  
14 in the relationship with distributors because  
15 of the sale?

16 THE WITNESS: Not in recent  
17 years, no.

18 MR. CAMP: Except your own?

19 THE WITNESS: Except Kitchener.

20 MR. CAMP: We don't have the  
21 date yet of the day on which you secured  
22 Curtis?

23 THE WITNESS: Mr. O'Donnell, do  
24 you have that? This is dated the third day of  
25 May, 1971, and I would suggest it would probably  
26 be a day or two before.

27 THE CHAIRMAN: What is this?

28 THE WITNESS: This is a contract  
29 with Curtis Distributing Company Limited, a  
30 Canadian subsidiary of Curtis Distributing Incorporated,





1 sent us to sign. It is dated the 3rd day of May,  
2 1971.

3 THE CHAIRMAN: That will be  
4 Exhibit 26.

5  
6 ---EXHIBIT NO. 26: Contract with Curtis  
7 Distributing Company Limited  
dated May 3, 1971

8  
9 THE WITNESS: That doesn't necessarily  
10 mean the date on there. That is the date of the  
11 contract, but I don't think the decision was  
12 reached until after that time.

13 MR. CAMP: On the 3rd of May,  
14 or thereabouts, you were relieved to know ---

15 THE WITNESS: A few days after  
16 that, yes. Now, it would be later than that,  
17 because that is dated the 3rd -- in my testimony  
18 I suggested the date would be from New York  
19 and it was from Mr. Coombs, who is the president  
20 of Curtis Circulation.

21 MR. CAMP: You had the contract  
22 on the 3rd?

23 THE WITNESS: It might have been  
24 dated that day, but I don't know whether that  
25 was the actual date for filing.

26 MR. CAMP: My conclusion is  
27 that still, as of the 10th of June, am I right,  
28 wasn't it indicated to you that Curtis was by  
29 no means firm?

30 THE WITNESS: That is right.







1 MR. CAMP: Even though you had  
2 a contract?

3 THE WITNESS: I don't know the  
4 date we had the contract. I am trying to say,  
5 even though that is dated the 3rd of May, that  
6 was the date we took over the company, and they  
7 have back-dated it to that day.

8 MR. CAMP: And Curtis, like  
9 anyone else, was not given advance notice of  
10 your purchase?

11 THE WITNESS: No, they were not.

12 MR. CAMP: And Curtis has a  
13 long clout?

14 THE WITNESS: Yes.

15 MR. CAMP: Did they raise the  
16 question with regard to Gordon and Gotch with you?

17 THE WITNESS: I believe they did,  
18 yes. It was more than Triangle that raised  
19 this point with us. It was more than Triangle  
20 that raised the point of participation of Gordon  
21 and Gotch in the purchase. They raised this  
22 eventual possibility they did not like.

23 MR. CAMP: Did McFadden-Bartell  
24 raise the point when they informed you you were  
25 no longer their wholesaler?

26 THE WITNESS: I don't remember  
27 that, sir. Mr. Bramall might be able to. By  
28 the way, you asked me to get some information  
29 from Mr. Bramall as to the reasons why Mr.  
30 Traina decided not to give us the franchise in





1       Kitchener and I have been unable to get in touch  
2       with Mr. Bramall. He is away I will get that  
3       information when I can get it. If you wish, I  
4       will also ask him if he recollects that point.  
5       He was in much more close contact with Mr. Traina  
6       on that than I was.

7                   MR. CAMP:     But, at any rate, of  
8       all those who raised this matter, none of them  
9       saw fit to terminate their relationship with you  
10      because of it?

11                   THE WITNESS:   No.

12                   DR. JEANNERET: I have just one  
13      question, Mr. O'Brien. The policy of sustaining  
14      the system of exclusive regional wholesaling  
15      franchises whereby periodicals and mass market  
16      paperbacks are distributed in this country and  
17      in this province in particular, I take to be  
18      a policy that is sustained, not by the regional  
19      wholesalers themselves, not by the publishers,  
20      as such, but by the national distributors, it is  
21      they who have the say as to whether or not the  
22      system of regional franchises shall be sustained  
23      and how it shall be administered, in effect, because  
24      they have the control of what makes the regional  
25      wholesaling business meaningful. Is that correct?

26                   THE WITNESS: I suppose, if you  
27      wish to put it that way, but let me say, sir,  
28      historically, in the really pregnant stages of  
29      this industry, this is the way the industry was  
30      built. This is the way it evolved. For example,





1 my dad started with the Toronto Daily Star  
2 in 1907 and served just the downtown area.  
3 Then he obtained other franchises for the  
4 Hamilton area and it is an historical thing that  
5 has been built up.

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1 It is the only sensible way that I can see  
2 that this type of distribution of periodicals and  
3 books could exist and still be economically sound.  
4 You see the publisher controls this at the start.  
5 Yes he could decide whether I could get his publications  
6 or not but I think maybe you are putting a little  
7 to much emphasis on that because the wholesalers  
8 like it too and they would be in terrible straits  
9 if it didn't exist in this way and might not  
10 be able to exist.

11 For many, many years we had what  
12 was called split towns. Hamilton is still a  
13 split town, there are two agencies, but the  
14 franchises they have in the city I would not have  
15 and the ones I have they do not have, Toronto was  
16 split at one time, Montreal was split. Many  
17 places were split and through amalgamations of  
18 one line with another this has all evolved over  
19 a period of years and I would hate to leave  
20 the impression with you that this was a real  
21 threat to us from the national distributors. It is  
22 not. They might control it at the top but it  
23 is a historical development of our business.

24 DR. JEANNERET: I have no doubt  
25 but that the original wholesalers have got where  
26 they have by reason of a system.

27 THE WITNESS: In most instances  
28 they prefer dealing with one source.

29 DR. JEANNERET: Presumably this is  
30 so and the publishers at the beginning of the stream





1 acquiesce because it is convenient for them to  
2 have national distributors but I put it to you  
3 that the decision to maintain the system or not  
4 maintain the system does really vest in  
5 the national distributors as such?

6 THE WITNESS: Yes.

7 DR. JEANNERET: They can change  
8 the system or sustain the system as they wish,  
9 because they control it?

10 THE WITNESS: Yes.

11 DR. JEANNERET: And to the extent  
12 that this is true, they are all non-Canadian?

13 THE WITNESS: Yes, sir, that is right.

14 DR. JEANNERET: I think there is one  
15 Britisher on the list and the rest are U.S.A.?

16 THE WITNESS: Well, we deal with  
17 Harlequin books, they are national distributors  
18 as far as we are concerned. The whole hockey news  
19 set-up -- there is Hockey News, Hockey Pictorial  
20 that is published in Montreal, we deal with them as  
21 a Canadian national distributor so that there are  
22 Canadians on here which are not indicated.

23 DR. JEANNERET: That is a good point  
24 and those Canadian organizations have been able to  
25 enter into what you might call national distributor-  
26 ships for their own publications?

27 THE WITNESS: Yes.

28 DR. JEANNERET: And they are recognized  
29 in the same system?

30 THE WITNESS: Yes, they are.







1 THE CHAIRMAN: And these are  
2 people who represent 5 per cent of the periodicals  
3 and books and .01 per cent of the mass market  
4 paperbacks?

5 THE WITNESS: Yes.

6 MR. CAMP: Can you let me in on a  
7 historic secret? What is your wholesale price of TV  
8 Guide?

9 THE WITNESS: 9 cents.

10 MR. CAMP: What was the retail price?

11 THE WITNESS: 11 cents to the retailer,  
12 selling at 15 cents.

13 MR. CAMP: Do you know if there  
14 has been any change in that pricing policy since  
15 the change in the wholesaler?

16 THE WITNESS: No, I have no knowledge  
17 of that at all.

18 THE CHAIRMAN: I just have two or  
19 three questions, if I may. At the meeting in  
20 Montreal, I want to go back to that, at which there  
21 was a discussion about amalgamation.

22 THE WITNESS: Bear in mind, sir,  
23 that prior to that time several Canadian wholesalers  
24 had discussed this and then we did approach the  
25 Molaskys and asked if they were interested and we  
26 had a meeting about it so I want to make it clear  
27 that some Canadian wholesalers had decided that  
28 maybe we should get together to amalgamate our  
29 interests and then become a public company.

30 THE CHAIRMAN: Did you decide after  
the discussion with Allan Molasky that if he would  
not participate you could not undertake this?





1 THE WITNESS: No, we did not, it  
2 would still be possible.

3 THE CHAIRMAN: Did you pursue this  
4 further?

5 THE WITNESS: We did pursue it  
6 to some extent but it is pretty difficult to deal  
7 with a group of independent businessmen to decide  
8 how much of the total action somebody else would  
9 get.

10 THE CHAIRMAN: At the Montreal  
11 meeting, was Mark Molasky present at the same  
12 time as his father, Allan?

13 THE WITNESS: Les Flegel was there,  
14 Allan Molasky was there, Terry Cosgrove was there --  
15 I am not sure. I am sure Mr. Cosgrove can answer  
16 that question.

17 THE CHAIRMAN: We will ask him.

18 THE WITNESS: I am not sure whether  
19 he was there or not. He is shaking his head,  
20 I can't recollect that he was present at that  
21 time.

22 THE CHAIRMAN: I want to ask you a  
23 question and I will go into the question by noting  
24 a Globe and Mail report this morning which indicates  
25 that the Ontario Securities Commission plans  
26 to study the question of retroactive application --  
27 I will read it again:

28 " The Ontario Securities  
29 Commission plans to set up a  
30 three-man committee to study the





1 " question of retroactive application  
2 of Ontario's new restrictions on  
3 foreign ownership of securities  
4 firms."

5  
6 Were you aware that the Ontario Legislature has  
7 a Bill before it that will restrict the foreign  
8 ownership of securities?

9 THE WITNESS: Very much so.

10 THE CHAIRMAN: You are aware of that?

11 THE WITNESS: Yes.

12 THE CHAIRMAN: And that the  
13 percentages are the same as the legislation  
14 which the Legislature is dealing with in connection  
15 with mass market paperback books and periodicals?

16 THE WITNESS: Yes.

17 THE CHAIRMAN: And in terms of  
18 retroactivity I would like you if you would,  
19 to comment on what you consider the ramifications  
20 would be for the wholesalers in Ontario if the  
21 legislation which has come from our Second Interim  
22 Report was also to be made retroactive, that is  
23 to say, if all the foreign-owned firms in Ontario  
24 would have to become 75 per cent Canadian owned?

25 THE WITNESS: That is a dandy!  
26 Well, to be perfectly honest with you, in some  
27 instances I would not object to American participation  
28 in a wholesale agency. I refer to Mr. Trosch's  
29 interest in Sudbury, and I refer to Mr. Scherer's  
30 interest in Windsor. I happen to know that







Toronto, Ontario

1 Mr. Scherer was interested in buying Chatham which  
2 would have been an economically sound proposition  
3 and I would not object to that at all but I happen  
4 to know that these gentlemen were not interested  
5 in obtaining a large monopoly in Ontario or any  
6 other part of Canada. So, if I can answer your  
7 question with the Molasky family, our group  
8 felt that they were trying to get control of  
9 southwestern Ontario and we objected to this.

10 Our group was not opposed to the  
11 acquisitions such as I said, of Sudbury or Windsor  
12 because we feel we know these men, we have known  
13 them for many years, we do business with them,  
14 socially at conventions we talk with them and  
15 we would have no objection. If that is an  
16 answer to your question, I feel it might hurt  
17 some and it may help us in other areas.

18 THE CHAIRMAN: That is all I have.

19 MR. HOLLAND: That is all, then,  
20 thank you very much Mr. O'Brien.

21 Mr. Harold Hill.

22 HAROLD HILL, Sworn.

23  
24 EXAMINED BY MR. HOLLAND:

25 Q. Where do you reside,  
26 Mr. Hill?

27 A. I reside in Kitchener.

28 Q. How long have you lived  
29 there?

30 A. 41 years.





1 Q. And you are a Canadian  
2 citizen, I believe?

3 A. Yes, sir.

4 Q. And with your son Lou  
5 Hill, were you the former owners of Kitchener  
6 News Company Limited?

7 A. That is correct.

8 Q. And you have been here  
9 during the last two days of evidence, have you,  
10 Mr. Hill?

11 A. I have.

12 Q. And you saw the area  
13 serviced by Kitchener News Company Limited pointed  
14 out on Exhibit 3?

15 A. Correct.

16 Q. And do you agree that  
17 that area was serviced by that company?

18 A. By Kitchener?

19 Q. Yes.

20 A. Yes, I agree.

21 Q. And when you and your son  
22 controlled Kitchener News Company Limited, was  
23 Kitchener News Company Limited the geographical  
24 wholesalers for the area for Triangle Publications  
25 and McFadden-Bartell?

26 A. That is right.

27 Q. And did you have any trouble  
28 with either Triangle or McFadden-Bartell?

29 A. None whatsoever.

30 Q. Then, I believe that Kitchener







1 News Company Limited was sold?

2 A. That is right.

3 Q. And what was the price for  
4 the sale?

5 A. It was \$532,000.

6 Q. You have heard, I believe,  
7 the figure for the gross sales for Kitchener News  
8 Company?

9 A. Yes, I agree with it.

10 Q. And that was \$1,340,000?

11 A. That is right.

12 Q. Could I see Exhibit 21,  
13 please? I am showing you Exhibit 21. Is that  
14 the agreement of purchase and sale?

15 A. That is correct, sir.

16 Q. And when did that  
17 transaction close?

18 A. It closed actually on  
19 May 3rd.

20 Q. Then, following the closing  
21 of the transaction on April 21st, did you have  
22 a telephone conversation with Mr. Northorp of  
23 Triangle Publications?

24 A. I did.

25 Q. And who is Mr. Northorp?  
26 What is his position?

27 A. Mr. Northorp is the  
28 Canadian sales representative for Triangle.

29 Q. And what did Mr. Northorp  
30 have to say to you?



1 THE CHAIRMAN: Mr. Northorp of  
2 what firm?

3 MR. HOLLAND: Of Triangle Publications.

4 Q. What did Mr. Northorp have  
5 to say to you?

6 A. Well, he phoned to verify  
7 as to whether Kitchener had been sold, which I  
8 told him had happened.

9 Q. And what else did he have  
10 to say?

11 A. When he received the  
12 information that it had been he instructed me  
13 to phone Mr. Lichtenberg in Radnor, Pennsylvania.

14 Q. Who is Mr. Lichtenberg?

15 A. He is the circulation  
16 manager for TV Guide.

17 Q. Then did you telephone  
18 Mr. Lichtenberg?

19 A. Well, at that time  
20 Mr. Northorp also told me that Mr. Lichtenberg  
21 was not too happy with the sale of the company if  
22 it had been sold and that there was a good  
23 possibility that the TV Guide would not go to the  
24 new distributor.

25 THE CHAIRMAN: By saying that  
26 did you understand that Mr. Lichtenberg knew about  
27 it?

28 THE WITNESS: I would say so, yes.

29 MR. HOLLAND: Q. And did you then  
30 telephone Mr. Lichtenberg?



1 A. I called Mr. Lichtenberg,  
2 yes.

3 Q. And was that the same day,  
4 that is April 21st?

5 A. That is right, the day after  
6 I received Mr. Northorp's call.

7 Q. And what did  
8 Mr. Lichtenberg say when you phoned him in  
9 Pennsylvania?

10 A. Well, he confirmed what  
11 Mr. Northorp had said, that there was a good  
12 possibility that the TV Guide would not be  
13 distributed by the new owners in the Kitchener area.

14 Q. Can you tell the Commission  
15 as best you can exactly what he said, using his  
16 own words, if you can?

17 A. Well, his own words were  
18 quite strong, he was quite heated at this time.

19 Q. What did he say?

20 A. Well, he said, "You think  
21 you Canadian bastards can do just as you wish".

22 Q. What was your answer to that?

23 A. I was, in fact, very meek  
24 and mild because I thought the easiest way to clear  
25 up the whole situation would be to accept it  
26 and I apologized for anything I had done wrong.  
27 However, there were quite a few "God damns" in  
28 there which was language I was not in the habit  
29 of using and my son was in the next office and  
30 I told him the story and explained to him at that







1 time that I had been quite meek and mild trying  
2 to pacify Mr. Lichtenberg.

3 Q. Did he give any reason to you  
4 for his concern over this sale?

5 A. Yes, his first reason was  
6 Mr. Terry Cosgrove, former manager of Metro.

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1 Q. What objection, if any, did  
2 he have to Mr. Cosgrove?

3 A. He said he had done a  
4 lousy job in Toronto, at which time I said that  
5 you could not blame the person or the area. It  
6 is possibly instructions from higher-ups, and  
7 he was taking his directions. He said that he  
8 did not like the thoughts of Gordon and Gotch  
9 and other distributors, another national  
10 distributor being in it, and also, I had not sought  
11 his permission for the sale, for the TV Guide  
12 franchise.

13 Q. At that time did he tell you  
14 whether or not Kitchener News Company Limited  
15 would be cut off distribution rights for TV Guide?

16 A. Not at that time.

17 Q. What did he tell you, so far  
18 as that was concerned?

19 A. When was this again?

20 Q. Insofar as cutting off the  
21 distribution rights for TV Guide, Triangle  
22 Publications.

23 A. You mean, when did we receive  
24 this word?

25 Q. Yes. What did he say in his  
26 telephone conversation about that?

27 A. He said it was possible that  
28 the new distributors would not receive the rights  
29 to distribute TV Guide in the Kitchener area.

30 Q. Then, did you, on the same day,







1 have a telephone conversation with Mr. Mark  
2 Molasky?

3 A. Yes, I would say possibly  
4 within 15 or 20 minutes after my phone call to  
5 Mr. Lichtenberg, I received a call from Mr.  
6 Mark Molasky.

7 Q. Within 15 or 20 minutes?

8 A. Right.

9 Q. Did you call Mr. Molasky, or  
10 did he phone you?

11 A. He phoned me.

12 Q. What did he have to say to you?

13 A. He said he wished to purchase  
14 the Kitchener agency.

15 Q. Yes? Did he indicate to  
16 you whether or not he realized the agency had  
17 been sold?

18 A. No, he did not, but I told  
19 him it had been sold and there was nothing I could  
20 do about it.

21 Q. Did he seem at all surprised  
22 when you told him it had been sold?

23 A. No, I would say not surprised.

24 Q. Did he ask who had purchased  
25 the agency?

26 A. I don't recall whether he did  
27 or not, but, during the course of the conversation,  
28 I would think that he knew the purchaser.

29 Q. You think he knew who the  
30 purchaser was?





1 A. Right.

2 Q. He must have known before he  
3 told you that it had already been sold?

4 A. I would think so.

5 Q. And you merely told him that  
6 it had been sold?

7 A. It had been sold and was out  
8 of my hands. If he wished to purchase Kitchener  
9 News, he would have to talk to the new owners.

10 Q. Did you have any further  
11 conversation with him at this time?

12 A. Yes, I did, on his part, more  
13 or less. He said that if the deal fell through  
14 that he would purchase the agency and pay more  
15 money. I know there had been a matter of \$50,000  
16 asked about here, but there was no stated amount,  
17 only "more money". That was the term that he used.

18 Q. Did you have any further  
19 telephone conversation with Mr. Molasky on the  
20 same date?

21 A. Yes, I would say 15 or 20  
22 minutes later I received another call from Mr.  
23 Molasky in St. Louis.

24 Q. What did he have to say at  
25 that time?

26 A. He said he wished to confirm  
27 his previous telephone call to purchase the agency  
28 if the deal dropped through, at more money, and  
29 if I could not contact him in St. Louis, I was  
30 to phone his dad, his partner, Allan Molasky, who





1 was at the Diplomat Hotel in Hollywood, Florida.

2 Q. Now, when did this transaction  
3 of purchase and sale close?

4 A. It was closed on May the 3rd,  
5 that is, the final closing was on May the 3rd.  
6 It had tentatively been set as April 30th, but  
7 owing to one of the signors being on vacation, and  
8 rather than bring him back ahead of time, at the  
9 suggestion of the new owners, they asked if we  
10 could defer this until May the 3rd, until he  
11 returned home.

12 Q. We have had evidence to indicate  
13 that Triangle Publications did, in fact, take  
14 away the franchise in the Kitchener area from  
15 Kitchener News Company and transferred it to  
16 Metro News Company in Toronto.

17 A. That is right.

18 Q. When was this done?

19 A. I received a call from Mr.  
20 Northrop, on April 30th and he informed me  
21 that he had very bad news for me, that TV Guide  
22 distribution would not be allowed the new owners  
23 and that they had made other arrangements for  
24 distribution in the Kitchener area, the May the  
25 8th issue, which was due in our office on the  
26 following day, May the 1st.

27 Q. Did he tell you TV Guide would  
28 be distributed by Metro News Company in Toronto?

29 A. No. He said "By other means".

30 Q. Did you advise Mr. Fred O'Brien







1 of this telephone conversation you had with Mr.  
2 Lichtenberg?

3 A. Immediately.

4 THE CHAIRMAN: I wonder if we  
5 might just take a break at this juncture.

6  
7 ---Recess  
8

9 THE CHAIRMAN: Mr. Holland, can  
10 you continue now, please, with the examination of  
11 Mr. Hill?

12 MR. HOLLAND: Thank you, Mr.  
13 Chairman. I have no further questions of Mr. Hill.

14 THE CHAIRMAN: Mr. Sedgwick?

15 MR. SEDGWICK: I have some questions.  
16

17 CROSS-EXAMINATION BY MR. SEDGWICK:  
18

19 Q. Mr. Hill, I wonder if we could  
20 go back to the chronology, and am I right that  
21 it was on the 20th of April that you signed the  
22 agreement for sale to the new group?

23 A. That is correct.

24 Q. And then, it was on that same  
25 day, was it, you had a call from Mr. Molasky, or  
26 was it the 23rd, I am not sure?

27 A. The day after, the 21st.

28 Q. On the 21st you had a call  
29 from Mr. Mark Molasky and he said he or his  
30 principals wished to purchase Kitchener News, is





1 that right?

2 A. Correct.

3 Q. And you said that it had been  
4 sold and there was nothing you could do about it,  
5 is that right?

6 A. That is right.

7 Q. Although, as of that date,  
8 the deal had not closed, had it?

9 A. There was an agreement of sale.

10 Q. But you had not closed the  
11 deal, I believe you had not closed it until the  
12 3rd of May, is that right?

13 A. That is correct.

14 Q. And then you had a second  
15 call from Mr. Mark Molasky, 15 or 20 minutes after  
16 the first call, and he said that he confirmed  
17 to you that if the deal fell through, he would  
18 buy it, if you wanted to sell it, and would pay  
19 you more money than under the present deal, is  
20 that right?

21 A. That is right.

22 Q. You are quite sure about that?  
23 Firstly, he called and said he would like to buy  
24 it and you told him that it had been sold?

25 A. At the same time. He told me  
26 then if the deal fell through, he would still  
27 purchase the Kitchener News Company and pay more  
28 money.

29 Q. That was the sequence: He  
30 said he would like to buy it and you said "We have







1 already sold it", and he said "Well, if that  
2 deal falls through, I am a purchaser for more  
3 money"?

4 A. That is correct.

5 Q. And then he called back 15  
6 or 20 minutes later to confirm that, is that  
7 correct?

8 A. Correct.

9 Q. There is no question, then,  
10 that Molasky offered to purchase the business  
11 on April 21st, 1971?

12 A. This was after the other  
13 agreement of purchase had been signed.

14 Q. Yes. Mr. Hill, I show  
15 you a letter -- I think it is a mimeographed  
16 copy, and the date is not clear, but I think it  
17 is May 21st, 1971. I wonder if you would look  
18 at this and tell me if that is your signature  
19 and then hand it back? I have no Xeroxs.

20 A. It is my signature.

21 Q. And that is a letter that  
22 you sent addressed to McMurray Publishing and  
23 I believe that is the Toronto firm which puts  
24 out TV Guide, is that correct?

25 A. I think -- I don't believe --  
26 we no longer had TV Guide at that time.

27 Q. I see. This letter which  
28 I have in my hand is addressed to McMurray  
29 Publications, 245 Carlaw Avenue. Who are they?

30 A. That is the Racing Form.





1 They have the racing form.

2 Q. Isn't that where Mr. Northrop  
3 is, Mr. Dick Northrop, isn't he there?

4 A. It is quite possible.

5 Q. Does not the same firm print  
6 and distribute in Ontario the TV Guide?

7 A. They do, but under a different  
8 billing.

9 Q. Let me read the letter and  
10 invite your comment on it:

11 "Dear Sir:

12 "Having just returned from  
13 the Periodical Distributors  
14 of Canada meeting in Calgary, I  
15 wish to refute the following  
16 story being passed around.",  
17 and this paragraph in small quotes:

18 "'The Molaskys offered to  
19 buy Kitchener News Company from  
20 my son and I and were refused.  
21 Two days after this offer I was  
22 supposed to have sold to the present  
23 owners and the reason for this is  
24 being given out as I would not  
25 sell to American bastards.'"

26 Then the letter continues:

27 "With the many close American  
28 friends I have made through the  
29 years and with many American  
30 relatives, it is most ironic that





1                                   such a statement should be  
2                                   attributed to me."

3       And then this:

4                                   "This is definitely untrue  
5                                   and I most emphatically wish to  
6                                   state that at no time did the  
7                                   Molaskys, or anyone in the Metro  
8                                   Toronto organization, approach  
9                                   either my son or I to purchase  
10                                  the Kitchener News Agency.  
11                                  Actually, talks had been going  
12                                  on with the new owners for some  
13                                  time. I maintained my integrity,  
14                                  some 41 years in the industry,  
15                                  and I surely have no cause to  
16                                  change my way of life now.

17                                  "Sincerely, Harold",

18       and underneath, in type:

19                                  "Harold Hill

20                                  "Kitchener News Company Limited."

21                                  Now, Mr. Hill, the statement in  
22       that letter that "at no time did the Molaskys  
23       or anyone in the Metro Toronto organization  
24       approach either my son or I to purchase the  
25       Kitchener News Agency", is simply not true, is  
26       it?

27                                  A. That is prior to the sale, to  
28       the agreement of sale.

29                                  THE CHAIRMAN: We do not have  
30       the benefit of this document, but would you read







1 the whole sentence?

2 MR. SEDGWICK: Yes:

3 "This is definitely untrue  
4 and I most emphatically wish to  
5 state that at no time (and I  
6 stress 'at no time') did the  
7 Molaskys or anyone in Metro  
8 Toronto organization, approach  
9 either my son or I to purchase  
10 the Kitchener News Agency.

11 Actually, talks have been going  
12 on with the new owners for some  
13 time."

14 Q. Now, Mr. Hill, the statement  
15 that the Molaskys at no time approached either  
16 your son or you, that is not true, is it?

17 A. Not in the sense in which you  
18 are putting it. I am talking about prior.

19 Q. Maybe I don't read English  
20 well. You have a copy, you read it, will you?

21 MR. HOLLAND: May I suggest, Mr.  
22 Chairman, this letter be marked as an Exhibit?

23 MR. SEDGWICK: Indeed, yes, I was  
24 going to submit it.

25 THE CHAIRMAN: I had supposed you  
26 would. It would help us if we had a copy.

27  
28 ---EXHIBIT NO. 27: Copy of letter dated May 21, 1971  
29 to McMurray Publishing from the  
30 witness





1 MR. SEDGWICK: While the date  
2 is a little obscure, while it is typed over the  
3 printing, it is marked "Received May 23rd, 1971,  
4 McMurray Publishing Company".

5 THE CHAIRMAN: Who put that stamp  
6 on it?

7 MR. SEDGWICK: McMurray Publishing,  
8 the people to whom it was addressed.

9 MR. CAMP: It is their own stamp?

10 MR. SEDGWICK: It is their own  
11 stamp, yes.

12 Q. I put it to you, Mr. Hill,  
13 the statement in that letter is not true?

14 A. It is not, if you are taking  
15 it in this sense. I was saying the Molaskys did  
16 not approach to buy my agency until after I had  
17 sold to the other people. This is my interpretation.

18

19

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1 Q. That is not what it says.

2 It says, "I wish to state that at no time -- at  
3 no time -- did the Molaskys or anyone in the  
4 Metro Toronto organization approach either my  
5 son or I".

6 A. That would be prior to the  
7 sale to the new people.

8 Q. But certainly your letter  
9 would leave the impression in the mind of the  
10 reader that you had never been approached by the  
11 Molaskys, wouldn't it?

12 A. In one sense I suppose so.

13 MR. CAMP: It seems to me,  
14 Mr. Hill, that the date is typed on the letter  
15 which is obviously the same typewriter as the  
16 one that prepared the letter and has been written  
17 over. It does appear to me to say, May 21st?

18 THE WITNESS: That is correct,  
19 May 21st.

20 MR. CAMP: Do you confirm that  
21 that is the date you signed on the letter?

22 THE WITNESS: Yes.

23 MR. CAMP: It got to Toronto in one  
24 day, according to the stamp.

25 MR. SEDGWICK: That is very good  
26 with our postal service.

27 MR. CAMP: That is remarkable.  
28 How did you mail this?

29 THE WITNESS: I have a young lady who  
30 takes the mail to the mail box.





1 MR. CAMP: When does she usually do  
2 that?

3 THE WITNESS: On her way home  
4 every evening.

5 MR. CAMP: On her way home in the  
6 evening on May 21st she mailed that letter?

7 THE WITNESS: That is right.

8 MR. CAMP: And McMurray Press  
9 got it on the same day.

10 MR. SEDGWICK: No, no, on May 23rd.  
11 My copy has the "Received" stamped. That  
12 would be a miracle if they got it the same day.  
13 It was amazing to get there two days later.

14 MR. CAMP: The same stamp is not  
15 on mine.

16 MR. SEDGWICK: No, it would not be,  
17 but it is on mine.

18 Q. Then, Mr. Hill, you have  
19 been in the business how many years?

20 A. 41 years.

21 Q. And I take it you were  
22 well aware that the distributors felt that they  
23 should be consulted if there was any change in  
24 ownership of one of their wholesale distributors,  
25 is that right?

26 A. I was not aware of this.

27 Q. You were not aware of this?

28 A. Never.

29 Q. Well then, you know

30 Mr. Terry Cosgrove?



1 A. I do.

2 Q. Are you aware that on  
3 May 4th, 1971, he wrote a letter to Mr. Northorp  
4 at 245 Carlaw Avenue, the same address?  
5 Have you seen that letter?

6 A. I have not.

7 Q. Well, may I show it to you  
8 and ask you if you recognize this as being a letter?

9 THE CHAIRMAN: Would you identify  
10 it again, Mr. Sedgwick?

11 MR. SEDGWICK: ...written by J.T.  
12 Cosgrove and signed, "Terry Cosgrove" and on the  
13 letterhead of Kitchener News.

14 THE CHAIRMAN: Have you ever seen that  
15 letter before, Mr. Hill?

16 THE WITNESS: I think possibly I  
17 may have seen a copy of it.

18 MR. SEDGWICK: Q. You know  
19 Mr. Cosgrove?

20 THE CHAIRMAN: Have you any copies  
21 of these?

22 MR. SEDGWICK: No I have not but  
23 I will make it an exhibit.

24 Q. And Mr. Cosgrove was the  
25 gentleman who was to be and who now is the Manager  
26 of Kitchener News, is that correct?

27 A. That is correct.

28 THE CHAIRMAN: What date is the  
29 letter?

30 MR. SEDGWICK: May 4th, 1971.







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THE CHAIRMAN: The day after

closing?

MR. SEDGWICK: That is right.

Q. And it reads, addressed  
to Mr. Northorp:

"

Dear Dick:

In a letter dated  
April 22, 1971, Mr. Harold  
Hill advised you of the sale  
of Kitchener News Company  
Limited to Messrs. Fred  
O'Brien, Brian Bramall, Bill  
Smith, Terry Cosgrove and  
Gordon & Gotch (Canada)  
Limited.

Due to unforeseen  
legal delay in reaching a final  
agreement with the Messrs.  
Hill the time lapse between  
the announcement of the sale  
and the actual closing was  
too limited to speak to the  
publishers and national  
distributors as had been our  
intention from the onset.

We apologize for this  
and respectfully request that  
we be permitted to continue  
to represent you in the





1       "

Kitchener territory. The  
job performed on your fran-  
chise by the Kitchener News  
Compan, over the years has  
been excellent. If possible  
we will improve on that  
performance.

Your approval of this  
transfer of ownership will be  
most appreciated.

Sincerely,

Terry Cosgrove."

And then this significant postscript:

15       "

P.S. Some publishers and  
national distributors have  
expressed some reservations  
regarding the participation of  
Gordon & Gotch in the ownership  
of the Kitchener News Company.  
Gordon & Gotch have purchased  
20 per cent of the shares  
as an investment. They are  
not interested in the manage-  
ment of the company other  
than to see it is run as  
efficiently as possible to  
further the sales of all  
publishers and national  
distributors. They will not







1 " request nor will they expect  
2 special treatment."

3  
4 Now, Mr. Hill, as to Gordon & Gotch  
5 it is true that the firm had 20 per cent -- that  
6 is correct?

7 A. I understand that.

8 Q. And it is also true that  
9 Mr. William Smith who was the president of the firm  
10 had a personal 10 per cent, is that correct?

11 A. Yes.

12 Q. That, of course, is not  
13 mentioned here. You say you have seen that letter  
14 but you did not write it?

15 A. I did not write it.

16 MR. SEDGWICK: May that be entered  
17 as an exhibit?

18 THE CHAIRMAN: Exhibit 28.

19 ---EXHIBIT NO. 28: Letter dated May 4, 1971  
20 addressed to Mr. R. Northorp  
21 from Terry Cosgrove.

22 MR. SEDGWICK: Q. And then I have  
23 in my hand a copy of a letter dated May 3rd, 1971,  
24 to Mr. David Lichtenberg and it is signed, or at  
25 least the name is typed on it, as being the sender  
26 of the letter, "Frederick O'Brien, President."  
27 Would Mr. Frederick O'Brien be the President of  
28 Kitchener News on the 3rd of May, 1971, the date  
29 of closing?

30 A. The date of closing?

Q. Yes.





1 A. It is a technicality. I am  
2 not aware of that or sure of it. The transaction  
3 was concluded on May 3rd.

4 Q. Do you recall this letter  
5 being sent to Mr. Lichtenberg?

6 A. I know nothing about that  
7 letter.

8 Q. You know nothing about that  
9 letter, eh?

10 A. No.

11 Q. Mr. Holland tells me that  
12 this is already an exhibit. It is Exhibit 23.

13 THE CHAIRMAN: May 3rd, letter  
14 from Frederick O'Brien, President Metro Toronto  
15 News Company Limited to Mr. David Lichtenberg.

16 MR. SEDGWICK: That is right.

17 Q. And it contains this  
18 paragraph which is the third paragraph:

19 "  
20 We regret through un-  
21 anticipated legal problems we were  
22 unable to consult with you and  
23 request your approval of this change  
24 in ownership as was our intent. We  
25 apologize that this news reached you  
26 second-hand."

27 Do you recall being consulted about that letter,  
28 if you were consulted?

29 A. I don't recall being  
30 consulted, no.





1 Q. And in any event, when was  
2 it that Mr. Lichtenberg or somebody from Triangle  
3 advised you that they were going to make a change  
4 in their distributorship for their line?

5 A. Definitely on April 30th.

6 Q. Definitely on April 30th?

7 A. Yes.

8 Q. So that this letter on  
9 May 3rd was written with the full knowledge that  
10 they had already made their decision, is that  
11 right?

12 A. Correct.

13 Q. Mr. Hill, did you ever  
14 have in mind putting out a TV Guide in competition  
15 with the one published by Triangle?

16 A. Myself?

17 Q. You and your associates?

18 A. I have no associates.

19 Q. Well, did you ever have  
20 that project in mind?

21 A. Never.

22 Q. Did you approach some of  
23 the department stores in the Kitchener area and  
24 tell them that you would have a rival TV Guide  
25 on their shelves some time in April, May or June  
26 of this year?

27 A. Myself, personally?

28 Q. You personally, yes.

29 A. No.

30 Q. Do you know of any such







1 approaches being made by anybody?

2 A. Not directly to the dealers.

3 I know that we have a local printer who had  
4 contemplated a book of this nature some many months  
5 before the sale was ever made.

6 Q. That is what I am getting at,  
7 a local printer who contemplated putting out a  
8 TV Guide in competition with the Triangle TV Guide,  
9 is that right?

10 A. There have been many tried  
11 it but few have succeeded.

12 Q. Well, certainly you knew  
13 that something of that kind was in the wind?

14 A. There was a possibility.

15 Q. Well, everything is possible.  
16 I would like to deal, if I may, with probabilities.  
17 Was it a matter of serious discussion that this  
18 competitive TV Guide should be put out and circulated?

19 A. I think everything is  
20 competitive. If a man thought he could make money  
21 on an object, he would try it.

22 Q. Mr. Hill, don't fence  
23 with me. I put it to you that you knew very well  
24 that a local printer and publisher had in mind  
25 putting out a competitive TV Guide?

26 A. He had done this prior to  
27 this time that we had made the sale.

28 Q. And were you ever told that  
29 Gordon & Gotch had some interest in publishing that  
30 competitive TV Guide?





1 A. Never.

2 Q. You didn't know that?

3 A. No.

4 THE CHAIRMAN: Are you suggesting,  
5 Mr. Sedgwick, that Gordon & Gotch did or are  
6 you calling evidence in this regard?

7 MR. SEDGWICK: Everybody is fishing  
8 here.

9 MR. HOLLAND: That is quite a fishing  
10 expedition, Mr. Chairman. I think it would be  
11 usual in view of that question and answer for  
12 Mr. Sedgwick to call a representative of Gordon &  
13 Gotch or call some evidence.

14 MR. SEDGWICK: No, I am bound by his  
15 answer. He says, "No" and I accept it. I don't  
16 know and one must explore and that is what I am  
17 doing.

18 Q. Now, Mr. Hill, so far as you  
19 are aware were any of the people who are now  
20 associated with Kitchener News concerned in any  
21 way with that prospective venture, that is,  
22 Mr. Cosgrove, Mr. Bramall, Mr. Fred O'Brien or  
23 Mr. William Smith? Were any of those people  
24 concerned in discussions even with this printer  
25 and publisher?

26 A. You mean to produce a  
27 local TV guide?

28 Q. Yes.

29 A. I would say yes.

30 Q. You would say they were?





1 A. Yes.

2 Q. So that we have this

3 position, that some of the people presently in the

4 Kitchener News Company were concerned -- and you

5 say some months before they purchased the Kitchener

6 News -- with exploring the possibility of putting out

7 a locally produced TV Guide which would compete

8 with Triangle, isn't that right?

9 A. That is right.

10 THE CHAIRMAN: This was before the

11 closing?

12 MR. SEDGWICK: Yes, before the

13 closing.

14 THE CHAIRMAN: Is that right?

15 THE WITNESS: Yes.

16 MR. SEDGWICK: That is what Mr. Hill

17 has said.

18 THE WITNESS: This was after the

19 closing.

20 THE CHAIRMAN: When was that,

21 Mr. Hill?

22 THE WITNESS: How soon after?

23 THE CHAIRMAN: Yes.

24 THE WITNESS: I would say a week

25 or ten days.

26 MR. HOLLAND: This was after the

27 franchise with Triangle had been lost?

28 THE WITNESS: After the franchise

29 with Triangle had been lost.

30 MR. SEDGWICK: Q. But in any event







1 you have already said that the project of putting  
2 out a competitive TV Guide was conceived and  
3 explored some months before you sold your interest,  
4 is that right?

5 A. I would have to deny that.

6 Q. But that is what you said?

7 A. I said that the man had  
8 approached us. Because we talked to a man does  
9 not say that we approved of it. In a free enterprise  
10 we would probably have to be consulted on this  
11 matter.

12 Q. Who was the man that  
13 approached you with this project?

14 A. I don't know the man's name,  
15 I would have to refer to my son.

16 Q. Do you know the name of  
17 his firm?

18 A. I don't know the name of the  
19 gentleman at all.

20 Q. Memory is a fallible thing,  
21 we must all do the best with the one we have.

22 THE CHAIRMAN: Was the approach made  
23 to you by this man?

24 THE WITNESS: No, to my son.

25 THE CHAIRMAN: It was made to your  
26 son?

27 THE WITNESS: Yes.

28 MR. SEDGWICK: Q. Your son was a  
29 partner in the firm, was he?

30 A. Yes.

Q. A 50-50 partner?

A. Yes.





1 Q. Then your son had discussions  
2 of some kind as to the feasibility of this project?

3 A. I don't know about feasibility,  
4 but I would say it is free enterprise, and if  
5 this man thought they could develop a local  
6 TV guide, we have them in the local papers and  
7 the Telegram has it.

8 Q. I quite agree with you. Would  
9 you agree with me that, it being free enterprise,  
10 it was the privilege of Triangle to decide who  
11 would distribute their TV guide in that district?

12 A. I am not denying that.

13 Q. No.

14 THE CHAIRMAN: I take it, this is  
15 a point I am interested in. You keep referring  
16 to a competitive TV guide. My understanding, as  
17 a layman, the words "TV Guide" really are owned  
18 by the Triangle Publications and refer to a  
19 particular publication?

20 MR. SEDGWICK: That is so.

21 THE CHAIRMAN: What you are saying,  
22 in point of fact, is what was being prepared  
23 as a project was a periodical or publication which  
24 would be competitive with TV Guide, as it is  
25 known, but under a different title?

26 MR. SEDGWICK: Slightly different,  
27 but would be competitive in a sense that it would  
28 give similar, if not the same, information as to  
29 listings of programs.

30 Q. That is what was contemplated,





1           isn't it?

2                   A. I think they were going to  
3       direct it more to local things in all media.

4                   DR. JEANNERET: I would like to  
5       ask a question of Mr. Hill, bearing on what you  
6       have just asked, and that is this:

7                   Mr. Hill, obviously, when you  
8       entered into this agreement to sell Kitchener  
9       News, you were selling certain physical assets.  
10      probably not very major, a very substantial  
11      number of franchises, I should have thought, but  
12      you have raised the question as to whether or  
13      not you had the right to sell these franchises.  
14      What was it you were selling for \$532,000, would  
15      you be explicit on that, as you understand it,  
16      what were you selling?

17                  A. I have been in the business  
18      41 years, and I think, possibly, the goodwill  
19      of the dealers, and included in this \$532,000 were  
20      some built-up assets in the company.

21                  DR. JEANNERET: Without these  
22      so-called franchises, you were selling very little,  
23      relatively speaking, for \$532,000?

24                  THE WITNESS: That is right.

25                  MR. SEDGWICK: Q. I think this  
26      is my last question, Mr. Hill:

27                   Did Kitchener News, at some time  
28      after April 30th, that is, when you lost Triangle,  
29      send out a bulletin to department stores in the  
30      Kitchener area, saying that there would be a rival







1 TV guide, which Kitchener News would be distributing?

2 A. This was sent out after when?

3 Q. After April 30th?

4 A. It was after May the 3rd,  
5 I had no jurisdiction on what went out.

6 Q. I know you hadn't, but as you  
7 were in the business 41 years and, as late as May  
8 the 21st, you were writing letters about it, I  
9 thought you might be able to help the Commission  
10 in that respect by saying whether, to your knowledge,  
11 there was such a bulletin?

12 A. My May 21st letter was  
13 refuting something that had been said about myself.

14 Q. I know, but it is written  
15 on Kitchener News letterhead. In any event, did  
16 you know if any such bulletin was sent out, if  
17 one was sent out?

18 A. What was the question again?

19 Q. I said, did you know whether  
20 or not a bulletin was sent out to some of the  
21 Kitchener department stores telling them that  
22 there would be a rival to the TV Guide and it  
23 would be distributed by Kitchener News?

24 A. I don't know if they were  
25 told there would be a rival or there were prospects  
26 of a rival.

27 Q. Oh, I see, prospects of a  
28 rival. Did you know of anyone in your company  
29 (I mean Kitchener News) telling Zehr's -- do you  
30 know who Zehr's is?





1 A. Yes.

2 Q. Take the TV Guide, the Triangle  
3 TV Guide, off their shelves and put on the  
4 competing TV Guide, which Kitchener News would  
5 distribute? Do you know of any such conversation?

6 A. No.

7 THE CHAIRMAN: This is a  
8 conversation or a bulletin?

9 MR. SEDGWICK: I can only inquire,  
10 but I am told there were two things: I am told  
11 there was a bulletin sent out saying that there  
12 would be a rival TV Guide very shortly, and I  
13 take it from Mr. Hill's answer that, far from  
14 denying that, he had some knowledge of such a  
15 bulletin.

16 Q. Is that fair, Mr. Hill?

17 A. I have some knowledge.

18 Q. Very well. Have you told us  
19 the extent of your knowledge?

20 A. To the best of my knowledge, yes.

21 MR. SEDGWICK: Very well, that  
22 will be all for me, thanks.

23 THE CHAIRMAN: Before you go,  
24 Mr. Sedgwick, have you any direct evidence of  
25 such a bulletin, or are you fishing again?

26 MR. SEDGWICK: No. I am cross-  
27 examining. It is not fishing. This has been  
28 described as an art. You do the best you can.

29 THE CHAIRMAN: I am using your  
30 word "fishing".





1 MR. SEDGWICK: Of course, I am  
2 fishing, but on the basis of information given  
3 to me, I am trying to find out the facts and Mr.  
4 Hill goes some distance towards confirming the  
5 information that I have.

6 DR. JEANNERET: Mr. Sedgwick, your  
7 question regarding Zehr's having been told to  
8 take the TV Guide off their racks and substitute  
9 another one, implied that another one existed.  
10 Are you going to indicate that that is so?

11 MR. SEDGWICK: I think it implies  
12 that one would be available in the near future  
13 to supplant the Triangle one, but, again, I am  
14 only trying to find out. It may be that such  
15 a bulletin exists. I am told it does. We don't  
16 have a copy. Maybe Mr. Holland has a copy, or  
17 has seen it. I don't know.

18 MR. HOLLAND: I thought you had  
19 one there.

20 MR. SEDGWICK: No, I don't.

21 MR. HOLLAND: It will come out  
22 in the next witness.

23 MR. SEDGWICK: Very well. You  
24 see, I wasn't entirely fishing.

25 MR. HOLLAND: He was certainly  
26 fishing on the other one.

27 MR. SEDGWICK: I believe so.

28 MR. CAMP: Well, I am intrigued  
29 by this line of questioning.

30 Mr. Hill, did you ever, at any time,







1 or anybody you know, seriously consider establishing  
2 a publication in Kitchener which would compete  
3 with the Television Guide? When I say "compete  
4 with Television Guide", I mean to prejudice  
5 the established consumer appeal of Television  
6 Guide?

7 THE WITNESS: No.

8 MR. CAMP: Prejudice its sale  
9 and reputation?

10 THE WITNESS: No.

11 MR. CAMP: There are, I assume --  
12 do you know of any publication competitive with  
13 TV Guide in the publications field?

14 THE WITNESS: Well, in the ---

15 MR. CAMP: Any magazine that  
16 renders the same service?

17 THE WITNESS: Other than the  
18 supplements in a number of papers.

19 MR. CAMP: Toronto Star, Globe  
20 and Mail, New York Times, Telegram?

21 THE WITNESS: Most American papers  
22 have a supplement, and even the local papers  
23 have a supplementary TV guide section.

24 MR. CAMP: Most of them, if not  
25 all of them, are available on the newsstands  
26 in Kitchener?

27 THE WITNESS: That is right.

28 MR. CAMP: I don't suppose you  
29 could tell us the difference between this competitive  
30 publication, which was on the drafting board, or





1 in somebody's mind and, let us say these other  
2 publications, such as the Telegram and the Star?

3 THE WITNESS: I would assume it  
4 is on the same line, with the exception that  
5 he was going to include, I believe, the local  
6 advertising for shows.

7 MR. CAMP: He would solicit local  
8 advertising?

9 THE WITNESS: Yes.

10 MR. CAMP: Is there not a Kitchener-  
11 Waterloo newspaper that produces a TV guide?

12 THE WITNESS: Just daily, not  
13 a special edition.

14 MR. CAMP: One other thing that  
15 I might as well get in my mind, because I have  
16 not pinned it down yet: Is it McMurray Press,  
17 McMurray Publications?

18 THE WITNESS: McMurray Publications,  
19 McMurray Publishing Company.

20 MR. CAMP: We have established  
21 that McMurray Publishing prints for Triangle  
22 the Daily Racing Form?

23 THE WITNESS: Yes.

24 MR. CAMP: What we have not  
25 established is whether or not it prints a portion  
26 of the TV Guide. Do you know?

27 THE WITNESS: I think it does  
28 print the present TV Guide.

29 DR. JEANNERET: Is there any  
30 confusion with Southam-Murray?





1 MR. CAMP: That is what I am  
2 getting at. Is Southam-Murray a part of McMurray?

3 THE WITNESS: Southam?

4 MR. CAMP: Previous information  
5 some of us had, and Dr. Jeanneret seems to be  
6 one of them, is that portion of the TV Guide which  
7 is prepared and published in Canada, it may all  
8 go on the presses in Canada, was under contract  
9 to Southam-Murray.

10 THE WITNESS: All I can say is  
11 that we received it from McMurray Press, the  
12 publishing company in Toronto. I don't know  
13 the background.

14 MR. CAMP: They would be the  
15 distributors.

16 THE WITNESS: They would print it.

17 THE CHAIRMAN: Did they bill you  
18 for it?

19 THE WITNESS: We were billed by  
20 Triangle.

21 THE CHAIRMAN: By Triangle.

22 MR. CAMP: I will find out sooner  
23 or later, Mr. Hill.

24 THE CHAIRMAN: Mr. Hill, just on  
25 one or two points, if I may, there was some  
26 discussion with you in connection with the  
27 transfer of the -- the refusal on the part of  
28 Triangle to see to the permission for the new  
29 owners to sell, or to handle TV Guide or Triangle  
30 Publications. I think you were asked as to whether







1 or not you felt that the national distributor  
2 had the right to approve of who did or did not  
3 sell his product in a particular area. Do you  
4 recall that line of questioning?

5 THE WITNESS: Yes.

6 THE CHAIRMAN: Do you agree the  
7 national distributor had that right?

8 THE WITNESS: He could possibly  
9 have the right, although I had never known it  
10 to be. They speak here of requesting permission  
11 to sell an agency. To my knowledge, this was  
12 not so. In fact, when I bought the agency  
13 some 16 years ago from the previous owner, whom  
14 I had worked for for 26 years, there was no  
15 communication at all respecting the sale. It  
16 was just the usual letter announcing the transfer  
17 of ownership.

18 THE CHAIRMAN: Did you have any  
19 written contract with Triangle in relation to  
20 your sale of the Triangle Publications in your  
21 district?

22 THE WITNESS: No.

23 THE CHAIRMAN: No. But, in any  
24 event, what occurred, as we understand it,  
25 was that the rights to Kitchener News, or whatever  
26 company it was, after May the 3rd, were, in fact,  
27 revoked, is that correct?

28 THE WITNESS: Yes, it is.

29 THE CHAIRMAN: And given to someone  
30 else?





1 THE WITNESS: Correct.

2 THE CHAIRMAN: So, Kitchener  
3 News Company after that date, could no longer  
4 purchase from Triangle News its publications for  
5 sale, is that correct?

6 THE WITNESS: That is correct.  
7 May I add at this time, during the controversy in  
8 late April and into May, we knew of some difficulties  
9 with TV Guide, but I approached the new buyers  
10 and offered them the opportunity to cancel the  
11 deal at that time.

12 THE CHAIRMAN: When was this?

13 THE WITNESS: This was in, say,  
14 after May 21st -- April 21st and May 30th.

15 THE CHAIRMAN: Who was your  
16 publisher?

17 THE WITNESS: All of the new  
18 buyers.

19 THE CHAIRMAN: Why did you make  
20 that offer?

21 THE WITNESS: I thought TV Guide  
22 was a very good franchise and I thought it would  
23 damage the new owners, could hurt the new  
24 owners. I wanted to leave the business -- I  
25 had retired. I wanted to leave in good faith.

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1 MR. CAMP: The fact that you had  
2 already lost the TV Guide, did it occur to you  
3 that that would diminish the value of your own  
4 business?

5 THE WITNESS: No, at that time  
6 I had received my money.

7 THE CHAIRMAN: Do you feel that  
8 if they had backed away from the deal on your  
9 offer at this time that if you had continued  
10 the owner would have been able to retain Triangle?

11 THE WITNESS: That, I don't know.

12 THE CHAIRMAN: Was that anywhere  
13 in your thoughts at the time they made this offer?

14 THE WITNESS: I don't think it even  
15 entered my mind. I wanted, as I say, to play  
16 fair with the new owners and if I thought this  
17 was going to be a detriment to them I would give  
18 up the deal.

19 THE CHAIRMAN: What would have  
20 been your plan in regard to the continued ownership  
21 of Kitchener News if that had happened at that  
22 time?

23 THE WITNESS: I would have  
24 continued on, sir.

25 THE CHAIRMAN: Do you think  
26 you would have looked favourably on the offer  
27 subsequently made by Mark Molasky?

28 THE WITNESS: I never even thought of  
29 it.

30 DR. JEANNERET: You were not a party







1 to that offer anyway?

2 THE WITNESS: No.

3 THE CHAIRMAN: Any further questions  
4 you would like to ask, Mr. Sedgwick?

5 MR. SEDGWICK: No.

6 MR. HOLLAND: No, Mr. Chairman.

7 THE CHAIRMAN: Thank you, Mr. Hill.

8 We have one or two things on. We will adjourn  
9 now until a little longer than we had anticipated,  
10 which will be 2.30 p.m.

11

12 ---Luncheon adjournment.

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1 ---The hearing resumed at 2.30 p.m.

2

3 THE CHAIRMAN: I think we should  
4 resume.

5 MR. SEDGWICK: Before Mr. Holland  
6 resumes, may I make some productions you asked  
7 for. The first is a cheque dated June 1st, 1971,  
8 payable to Upper Canada News Limited for \$447,815.30  
9 signed by Somerset Specialties Limited per  
10 J.G. Romanez and this cheque and all the ones  
11 that I mention were certified cheques.

12 The second is a cheque dated  
13 June 11th, 1971, to Reginald Halliley for \$239,000  
14 signed as the preceding one.

15 The next is dated June 11th, 1971,  
16 the Canada Permanent Trust Company for \$50,000  
17 signed as the preceding ones.

18 The next is dated June 11th, 1971,  
19 to Reginald Halliley for \$189,000, again signed  
20 for Somerset Specialties by J.G. Romanez and  
21 certified as they all were.

22 And the last, dated June 11th, 1971,  
23 for \$125,000 to Western News Company Limited and  
24 signed in the same way.

25 Mr. Chairman, in giving his evidence  
26 Mr. Molasky said that as to these cheques of  
27 June 11th, he believed he was there to sign them.  
28 I think he was mistaken but he was there to sign  
29 the banking resolution which was signed on behalf  
30 of Somerset Specialties Limited on the same day and





1 by him as President and Treasurer and it was that  
2 document that permitted the signing of the cheques.  
3 Indeed, as I read it, he should have signed them  
4 but he didn't. However, the question was if he  
5 was there and he signed the banking resolution  
6 of authority. They could all go in as one exhibit.

7 THE CHAIRMAN: Are you going to file  
8 the bank resolution?

9 MR. SEDGWICK: Yes.

10 THE CHAIRMAN: Perhaps they can  
11 all go in as one exhibit.

12 MR. HOLLAND: I think the cheques  
13 should be one separate exhibit and the banking  
14 resolution another exhibit.

15 MR. SEDGWICK: Very well.

16 THE CHAIRMAN: We will list those  
17 cheques in A, B, C, D and E, Exhibit No. 29.

18  
19 ---EXHIBIT NO. 29A: Cheque dated June 1st, 1971,  
20 payable to Upper Canada News  
21 Limited for \$447,815.30  
signed by Somerset Specialties  
Limited per J.G. Romanez.  
(certified)

22  
23 ---EXHIBIT NO. 29B: Cheque dated June 11th, 1971,  
24 to Reginald Halliley for  
\$239,000 signed as above.  
(certified)

25  
26 ---EXHIBIT NO. 29C: Cheque dated June 11th, 1971,  
27 the Canada Permanent Trust  
Company for \$50,000 signed as  
above (certified)

28  
29 ---EXHIBIT NO. 29D: Cheque dated June 11th, 1971,  
30 Reginald Halliley for \$189,000,  
signed for Somerset Specialties  
by J.G. Romanez (certified)







1 ---EXHIBIT NO. 29E: Cheque dated June 11th, 1971,  
2 for \$125,000 to Western News Company  
3 signed the same as previous ones  
4 (certified)

5 THE CHAIRMAN: Then, the banking  
6 resolution will be Exhibit 30.

7 ---EXHIBIT NO. 30: Banking resolution, signed on  
8 June 11th, 1971.

9 MR. HOLLAND: In connection with  
10 Exhibits 29 and 30, I would like to draw your  
11 attention to the evidence of Mr. Moasky at page  
12 2,816 which reads as follows, starting at line 12:

13 " Q. The legislation became  
14 effective on the Monday or  
15 the effective date was the  
16 Monday?

17 A. Yes, sir.

18 Q. Why was it closed on the  
19 Friday before the legislation  
20 became effective on the  
21 Monday?

22 A. I was up here attending a  
23 luncheon in Toronto with Peter  
24 Ridout.

25 Q. Where was that luncheon held?

26 A. At the Inn on the Park in  
27 Toronto.

28 Q. What date?

29 A. Wednesday.

30 Q. That would be the 10th?



1                   "                   A.           Yes, sir.

2                                   Q.           No, the 9th, it was held

3   on the Wednesday, you say?

4                   A.           Yes, sir.

5                   Q.           Yes.

6                   A.           I talked to Peter Ridout,

7                                   Peter recommended that as

8                                   long as I was here we might

9                                   as well close the contract.

10                  Q.           Was your presence necessary

11                                   in Toronto to physically

12                                   close this transaction?

13                  A.           Yes, sir.

14                  Q.           Why?

15                  A.           The signing of the cheques.

16                  Q.           That was the only requirement

17                                   that would bring you back to

18                                   Toronto to sign the cheques?

19                  A.           Yes, sir."

20                                   MR. SEDGWICK: He was mistaken.

21                                   THE CHAIRMAN: It is not a question of

22                                   counsel giving evidence.

23                                   MR. SEDGWICK: I am not giving

24                                   evidence, I say he was mistaken.

25                                   MR. HOLLAND: Mr. Chairman, may I

26                                   have the last exhibit, please? I would point out,

27                                   Mr. Chairman, on Exhibit No. 30 the resolution is

28                                   in part as follows:

29                  "           1.           That the Toronto Dominion Bank

30                                   is appointed the





1 " banker of the company,  
2 2. That Mark Molasky or any two  
3 of Robert McMonigle, Ben  
4 Wilcox and John Romanez  
5 are hereby designated signing  
6 officers of the company and  
7 authorized and empowered  
8 on behalf of the company  
9 from time to time to sign  
10 cheques ..."

11 et cetera and I point out --

12 THE CHAIRMAN: What is the date of  
13 that?

14 MR. HOLLAND: This is dated the  
15 11th day of June, 1971 and I point out that those  
16 cheques were not signed in accordance with the  
17 terms of the resolution.

18 MR. SEDGWICK: Mr. Molasky should  
19 have signed them and he didn't.

20 THE CHAIRMAN: The first cheque  
21 is June 1st?

22 MR. SEDGWICK: That was a different  
23 transaction.

24 THE CHAIRMAN: That would be the  
25 Belleville transaction. According to the banking  
26 resolution it is dated the 11th of June. I wonder  
27 if any officer of the company had authority by a  
28 banking resolution to sign a cheque on the 1st?

29 MR. SEDGWICK: I believe so. I  
30 believe this was the supplementary resolution.







1 THE CHAIRMAN: If there is a  
2 supplementary resolution then perhaps we might have  
3 the original resolution with the earlier date?

4 MR. SEDGWICK: If I can find it,  
5 it is no doubt at the bank. I do not question  
6 Mr. Romanez's right to sign on the 1st of June.

7 MR. HOLLAND: Mr. Chairman, if  
8 I may call the next witness, Terry Cosgrove.

9  
10 TERENCE J. COSGROVE, Sworn.

11  
12 EXAMINED BY MR. HOLLAND:

13 Q. Where do you reside,  
14 Mr. Cosgrove?

15 A. In Thornhill, Ontario.

16 Q. And how long have you  
17 resided there?

18 A. About seven years.

19 Q. And you are a Canadian  
20 citizen, I believe?

21 A. I am.

22 Q. And what is your present  
23 position?

24 A. General Manager and Vice-  
25 President of the Kitchener News Company.

26 Q. And I understand that  
27 you own 25 per cent of the shares of Kitchener  
28 News Company Limited?

29 A. Just 20 per cent.

30 Q. I am sorry. How long have



1 you been in the business of wholesaling  
2 periodicals and paperbacks in Ontario?

3 A. About seven years.

4 Q. And I believe that before  
5 going to Kitchener News Company Limited, you were  
6 with Metro Toronto News Company?

7 A. Correct.

8 Q. In what capacity?

9 A. General Manager.

10 Q. When did you leave Metro  
11 Toronto News Company?

12 A. In January of this year.

13 Q. How long had you been  
14 General Manager of that company?

15 A. I think about six and one-  
16 half years.

17 Q. So you were the General  
18 Manager when the Molasky family, if we can call  
19 it that, purchased a 50 per cent interest in that  
20 company?

21 A. Yes, sir.

22 Q. Why did you leave Metro  
23 Toronto News Company?

24 A. I was asked for my  
25 resignation.

26 Q. Was any reason given to you?

27 A. Yes, they were very upset  
28 with the year-end statement.

29 Q. When you say, "they were  
30 upset", to whom were you referring?





1 A. Mark Molasky and Allan  
2 Molasky.

3 THE CHAIRMAN: Who asked you to  
4 leave?

5 THE WITNESS: Allan Molasky.

6 MR. CAMP: Allan Molasky?

7 THE WITNESS: Allan Molasky.

8 MR. HOLLAND: Q. Was this in  
9 Toronto?

10 A. Yes.

11 Q. The two of them came up for  
12 this meeting, did they?

13 A. Correct.

14 Q. Were there just the three of  
15 you present; that is, when you were asked to resign?

16 A. Yes, I believe yes.

17 Q. Can you tell us just  
18 exactly what was said so far as you can remember  
19 the conversation?

20 A. I had previous discussions  
21 with Mark Molasky the previous day. The year-end  
22 statement was not to their liking and was not to  
23 my liking.

24 Q. What was the problem?

25 A. Well, it was not good enough,  
26 it was not good enough in my eyes and it was not  
27 good enough in theirs. I felt and they felt that  
28 we should have had a much better year.

29 Q. Yes, and then you had this  
30 conversation with the two Molaskys on the next day?







1 A. On the next day.

2 Q. And what was said?

3 A. Well, Allan -- I don't  
4 recall exactly -- Allan said that he was unhappy  
5 with the statement, that I had not done things in  
6 the manner that he directed on many occasions  
7 and that did I wish to resign or did I wish to be  
8 dismissed.

9 Q. He gave you quite a choice?

10 A. Yes.

11 DR. JEANNERET: Might I ask you  
12 whether or not your dissatisfaction was with the  
13 gross?

14 THE WITNESS: The gross.

15 DR. JEANNERET: Gross sales?

16 THE WITNESS: No, gross profit.

17 MR. HOLLAND: Q. You said that  
18 Allan Molasky was not satisfied with the manner  
19 in which you had followed his directions. Did he  
20 or did his son direct you in the management of the  
21 business of Metro Toronto News Company?

22 A. Allan and Mark Molasky did and, of  
23 course, Bob Croll and Bernstein did and Flegel did.

24 Q. You mentioned five names  
25 there. Were those the names of people from  
26 St. Louis in Pierce News Company Incorporated?

27 A. Yes.

28 Q. And to what extent did the  
29 management in St. Louis of Pierce News Company  
30 Incorporated dictate the way in which Metro Toronto





1 News Company was operating?

2 A. Well, let me say this, that  
3 previous to the Molaskys becoming the 50 per cent  
4 owner or 42 per cent owner in the next office  
5 I had more freedom of operation at that time than  
6 I did after the Molaskys took over.

7 Q. To what extent, as Manager,  
8 did you have to consult with the officials of  
9 Pierce News Company Incorporated?

10 A. Salary increases, employing  
11 people -- just about everything.

12 Q. Just about everything?

13 A. Yes.

14 Q. And then as I understand it  
15 you took the choice of resigning from Metro Toronto  
16 News Company?

17 A. I did.

18 DR. JEANNERET: Mr. Holland, while  
19 you are on this point I think there is a little  
20 misunderstanding about terminology here. You  
21 said that gross profit was the problem and I  
22 presume the gross profit would largely be  
23 determined by over-all company policy, the discounts  
24 at which it purchased and the discounts at which  
25 you sold and that you probably are referring to  
26 net income, rather than gross profit. Cost  
27 of sales were something you did have control over?

28 THE WITNESS: I beg your pardon?

29 DR. JEANNERET: The cost of sales  
30 would be something you did have control over, your





1 operating overheads that would yield a net profit  
2 and it is the net profit, I think, that was the  
3 problem from what you say, is that fair?

4 THE WITNESS: It was spread between  
5 costs of sales and purchase of goods.  
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1 DR. JEANNERET: That is your net.

2 MR. HOLLAND: Q. Now, does

3 Kitchener News Company Limited handle all of the  
4 line of all the North American distributors with  
5 the exception of the publications of Triangle  
6 Publications and McFadden-Bartell Corporation?

7 A. I believe so.

8 Q. And we have already heard  
9 that TV Guide is the number one publication of  
10 Triangle Publications?

11 A. Yes.

12 Q. Would you explain again the  
13 importance of TV Guide to an Ontario geographical  
14 wholesaler?

15 A. It is represented in Kitchener  
16 better than 11 per cent, and I believe Metro  
17 Toronto News Company, it would represent about  
18 the same figure.

19 MR. CAMP: In Metro it would be?

20 THE WITNESS: In Metro it would  
21 be, I believe, about the same.

22 MR. HOLLAND: Q. We have heard  
23 from Mr. Hill and Mr. O'Brien concerning conversations  
24 with Mr. Lichtenberg on the loss of Triangle  
25 Publications. Were you engaged in any of these  
26 negotiations or did you have any conversations  
27 with Mr. Lichtenberg?

28 A. At that time I did not.

29 Q. We have already heard that  
30 the publications of Triangle and McFadden-Bartell





1 are being distributed in the Kitchener area by  
2 Metro News Company?

3 A. Yes.

4 Q. Were you, as manager of Kitchener,  
5 ever given any reason by McFadden-Bartell for the  
6 change to Metro News Company?

7 A. No, sir.

8 Q. Or by anyone on their behalf?

9 A. No.

10 Q. Did you at any time have any  
11 conversations with Mark Molasky, or Allan Molasky,  
12 as to the intention of either of these people  
13 to take over the wholesaling of publications in  
14 Southern Ontario from other geographical wholesalers?

15 A. Purchasing, yes.

16 Q. With both of them or just  
17 with one?

18 A. Both.

19 Q. What did they tell you about  
20 purchasing other geographical wholesalers in  
21 Ontario?

22 A. They were interested in purchasing  
23 any southern Ontario operations, agency, if you  
24 like.

25 Q. Were these conversations  
26 with the Molaskys when you were manager of  
27 Metro Toronto News Company?

28 A. Yes.

29 Q. Was there any conversation  
30 about taking over the whole of Southern Ontario





1 or just part of Southern Ontario?

2 A. Well, it was not a conversation;  
3 it was asking "Is Hamilton for sale? Is Cornwall  
4 for sale?" and so on. Not all encompassing at  
5 that time.

6 Q. Then, to get back to TV Guide  
7 and Mr. Lichtenberg, as I understand it, you  
8 were present at a meeting at the Inn-on-the-Park  
9 on the 10th of June in the morning, with Mr.  
10 Lichtenberg, to discuss distribution rights of  
11 Triangle Publications in Kitchener?

12 A. Yes, sir.

13 Q. Who was present at that meeting?

14 A. Mr. Lichtenberg and Mr. Hugh  
15 Crocker of Triangle Publications.

16 Q. What position does Mr. Hugh  
17 Crocker hold with Triangle Publications?

18 A. I think he is assistant  
19 circulation director.

20 Q. Is he in the United States?

21 A. Yes, he is.

22 Q. Who else was present?

23 A. Mr. Lichtenberg and myself.

24 Q. Just the three of you?

25 A. Yes.

26 Q. What was said concerning the  
27 distribution in Kitchener of publications of  
28 Triangle Publications?

29 A. Well, I was not sure at the  
30 of  
interview, the results of the interview, because







1 Mr. Lichtenberg told me that if any dealer or  
2 chain of dealers had a good and valid reason for  
3 not taking TV Guide from Metro Toronto News Company,  
4 we would be given the copies to supply that dealer.

5 Q. And, as a result of that  
6 conversation, did you go to any of their dealers  
7 or retailers and seek their assistance in gaining  
8 the right to sell TV Guide?

9 A. Yes, sir.

10 Q. Did you go to all of the dealers  
11 in the Kitchener area in this connection?

12 A. That would be  
13 a physical impossibility, but I did go to certain  
14 key dealers.

15 Q. What happened as a result of  
16 that?

17 A. Well, before that day was  
18 out, I thought I had lined up about 20,000 TV  
19 Guide circulation in the Kitchener area.

20 Q. 20,000 out of a total of?

21 A. 40,000.

22 Q. So you had about 50 per cent  
23 within one day?

24 A. Right.

25 Q. Did you advise Mr. Lichtenberg  
26 of this?

27 A. I advised Mr. Hugh Crocker of  
28 this on the phone on the following Monday.  
29 That would be the 14th, I believe.

30 Q. And what did he say to that?





1 A. Well, he said, "Give it a little  
2 time". One of the conditions was that a TV  
3 Guide representative had to be present with the  
4 dealer and the dealer had to state to him  
5 personally that they had a good and valid reason  
6 for wanting service from us. That was one of  
7 the conditions, so during our telephone conversation,  
8 Hugh said that he would have a man in presently.

9 Q. Did he do that?

10 A. He did that.

11 Q. When did the man attend?

12 A. I think it was about two  
13 weeks subsequent to our conversation.

14 Q. What was the name of the man?

15 A. Bert Squire.

16 Q. Was he from the United States?

17 A. No, from Toronto.

18 MR. CAMP: I didn't hear that.

19 MR. HOLLAND: Squire.

20 Q. Was he a local representative  
21 of Triangle Publications in Toronto?

22 A. Yes, and I believe he has  
23 part of that territory. I am not sure -- part  
24 of the Kitchener territory.

25 Q. You mean he is responsible  
26 for the Kitchener territory for Triangle Publications.

27 A. I don't know, frankly, but  
28 Mr. Northorp could tell you that.

29 Q. Did you then attend with Mr.  
30 Squire on the various distributors and retailers?





1 A. No, I was not supposed to.

2 Mr. Crocker said that neither was a  
3 representative of Metro Toronto News Company.

4 Q. Did Mr. Squire ---

5 THE CHAIRMAN: Could I have that  
6 again?

7 THE WITNESS: He said that I  
8 was not permitted to attend, in speaking to the  
9 dealers, and he said that is fair, because neither  
10 is the representative of Metro Toronto News Company,  
11 permitted to attend.

12 MR. HOLLAND: Q. So far as you  
13 know, did Mr. Squire make the round by himself?

14 A. So far as I know, he did.

15 Q. Did you hear of the results  
16 of his inquiries from the retailers?

17 A. Yes.

18 Q. Who told you the results, was  
19 it Mr. Squire?

20 A. The retailers.

21 Q. The retailers?

22 A. Yes.

23 Q. Did you have any further  
24 conversation with Mr. Squire following this tour  
25 he made?

26 A. I had a conversation with him,  
27 yes.

28 Q. What was said at that  
29 conversation?

30 A. Well, I felt, from what the





1       retailers had told me that they had told him,  
2       I felt that they had not gotten through to Bert  
3       Squire. Whether they had not emphasized it as  
4       much to him as to me, I don't know.

5                   Q. Maybe we should start with  
6       the retailers. What information did you receive  
7       from the retailers, following this visit from  
8       Mr. Squire?

9                   A. One was the buyer of Dutch  
10      Boy Supermarkets, Denny Meyer, who told me  
11      in a very nice way -- had told Bert Squire that  
12      he did not want to take from Squire because he  
13      felt it was confusing and was costly, and was  
14      confusing his whole personnel and that he wanted,  
15      I think his terminology was -- he wanted to be  
16      supplied by Kitchener News Company.

17                  Q. Yes. Now, then, you said you  
18      then spoke to Mr. Squire some time following  
19      this canvass that he made. What information did  
20      you receive from Mr. Squire?

21                  A. The next morning he called  
22      me. He had been into Central Meat Market in  
23      Waterloo, which is a very good TV Guide account,  
24      and he asked me if I had talked to the owner.  
25      I said I had and I said "Why?" and he said,  
26      "Well, he seems to be very adamant in insisting  
27      that he wants to buy from Kitchener News Company".  
28      I said, "Bert, I also spoke to Bob McConnell of  
29      Zehr's, who you were going to see, and I also  
30      spoke to Joe Flanagan of the Highway Mart."





1 Q. Did you have any further  
2 conversation with Mr. Squire concerning the  
3 results of this canvass?

4 A. No.

5 Q. Has there been any change  
6 since this canvass in the rights, if we can  
7 call it that, of Kitchener to distribute Triangle  
8 Publications in the Kitchener area?

9 A. No, nothing.

10 Q. Were any letters written,  
11 to your knowledge, by retailers, to TV Guide  
12 Limited, or any of the North American distributors,  
13 asking that Kitchener News Company retain the  
14 distribution rights in the Kitchener area?

15 A. Yes. They sent a letter,  
16 and I think some wires.

17 Q. Did you receive copies of  
18 some of these letters?

19 A. Yes, sir.

20 Q. I am showing you, for example,  
21 a copy of a letter, Dutch Boy Food Markets Limited,  
22 dated June 4th, 1971, to TV Guide Limited. Do  
23 you recognize that letter?

24 A. Yes, sir.

25 Q. A letter from Central Meat  
26 Market Limited to Mr. D. Lichtenberg, TV Guide,  
27 Pennsylvania, dated May 12, 1971. Do you identify  
28 a copy of that letter?

29 A. Yes, sir.

30 Q. And a letter from Algor





1 Smokers' Supply Limited to Mr. D. Lichtenberg,  
2 Pennsylvania, dated May 18th, 1971. Do you  
3 identify a copy of that letter?

4 A. Yes.

5 MR. HOLLAND: May these three  
6 letters be the next Exhibit?

7 MR. SEDGWICK: Would you give  
8 me the dates again, Mr. Holland?

9 THE CHAIRMAN: Just read the  
10 dates.

11 MR. SEDGWICK: May the 18th,  
12 May the 12th ---

13 THE CHAIRMAN: That will be Exhibit  
14 31A, B and C. A is Dutch Boy and B is Central  
15 Meat Market and C is the Smoke Shop.

16  
17 ---EXHIBIT NO. 31-A: Copy of letter from Dutch  
18 Boy Food Markets Limited  
19 dated June 4, 1971 to TV  
20 Guide Limited

21 ---EXHIBIT NO. 31-B: Copy of letter from Central  
22 Meat Market to TV Guide,  
23 dated May 12, 1971

24 ---EXHIBIT NO. 31-C: Letter from Algor Smokers'  
25 Supply Limited to TV Guide  
26 dated May 18, 1971

27 MR. HOLLAND: Q. You have told  
28 us some of the efforts made in connection with  
29 TV Guide. Were any efforts made to retain or  
30 get back the distribution rights for McFadden-Bartell







1 Corporation?

2 A. There were efforts made.

3 Q. What efforts were made?

4 A. Well, at the outset, the trip  
5 made by Mr. O'Brien and Mr. Bramall to New York,  
6 and subsequent to that, there were various telephone  
7 conversations to Mr. Bramall and Mr. Traina of  
8 McFadden-Bartell.

9 Q. Was there any reason given  
10 by McFadden-Bartell, to your knowledge, at any  
11 time, for the changeover of the distribution  
12 rights from Kitchener News Company to Metro  
13 Toronto News Company?

14 A. The only reason was the one  
15 stated in the letter.

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1 MR. SEDGWICK: I didn't hear the  
2 last answer.

3 MR. HDLLAND: No reason other than  
4 the one stated in the letter. I am just trying to  
5 find the exhibit number for that, Mr. Chairman--  
6 Exhibit No. 24.

7 THE CHAIRMAN: A letter dated  
8 June 3rd, 1971 to Mr. J.T. Cosgrove from McFadden-  
9 Bartell Corporation signed by Frank Cerminaro

10 MR. HOLLAND: Q. And the only reason  
11 given in that letter as I read it was that,  
12 "Our management has reviewed the matter and we  
13 feel our interests can be served better through  
14 another means of distribution".

15 A. That is right.

16 Q. So, you know of no other  
17 reason given at any time for cancellation of these  
18 distribution rights?

19 A. Not to my knowledge.

20 Q. You have been in  
21 this business for how long now?

22 A. Over 20 years.

23 Q. Is it usual in a sale of  
24 an Ontario geographical wholesaler to seek prior  
25 agreement of a national distributor to the sale  
26 or proposed sale?

27 A. Let me say 10 years ago  
28 it was very usual.

29 Q. It was usual?

30 A. It was usual, it was standard





1 operating procedure, but there have been a good  
2 number of transactions in the past few years I  
3 am sure where the national distributor has not  
4 been consulted.

5 Q. Now did the Kitchener  
6 News or the purchasers of Kitchener News ask for  
7 approval of Triangle or McFadden-Bartell or from  
8 any other national distributor prior to the  
9 purchase to your knowledge?

10 A. They did not.

11 Q. Why was that?

12 A. Well, as I said and resaid  
13 in the letter, it was our intention to because we  
14 wanted to have a good relationship with all of our  
15 suppliers but as Mr. O'Brien testified, the time  
16 limit and the time gap between the actual signing  
17 of the buy and sell agreement and the closing  
18 was such that we didn't have enough time. That,  
19 coupled with the meeting in Florida where virtually  
20 all national distributors were attending, made it  
21 a little more awkward too. It was our intention  
22 to discuss it with them and even to the point where  
23 Brian Bramall was going to Florida, Fred O'Brien  
24 said that he thought that Brian may or should, just  
25 as soon as possible, speak to them all in Florida  
26 before they could hear from another source.

27 DR. JEANNERET: Mr. Holland, there  
28 is nothing, Mr. Cosgrove, in that whole situation in  
29 your experience that led you to feel that what you  
30 should be entering into was a conditional offer







1 to purchase rather than a firm offer to purchase?

2 THE WITNESS: Not at all.

3 DR. JEANNERET: You didn't feel  
4 unduly vulnerable even though you didn't know the  
5 posture of the distributors whose franchises were  
6 really what you were buying?

7 THE WITNESS: I didn't feel that, no.

8 MR. HOLLAND: Q. We have heard  
9 about Triangle Publications and McFadden-Bartell  
10 Corporation. Is Metro Toronto News Company  
11 attempting or has it attempted in any other way  
12 to move into the Kitchener area since the purchase?

13 A. Yes, they have been very  
14 active in the Kitchener area.

15 Q. Would you explain what  
16 you mean by "being very active in the Kitchener  
17 area"?

18 A. Well, they made the  
19 presentations to the prominent chains to instal  
20 the Family Reading Centre and supply them  
21 with all manner of needs, As they pointed out in  
22 their presentation it is better to have one  
23 supplier rather than two. They also opened two  
24 individual dealers in the Kitchener territory.

25 Q. I didn't get the last part  
26 of your answer.

27 A. They opened two dealers  
28 in the Kitchener territory.

29 Q. What do you mean by "opening  
30 two dealers"?





Toronto, Ontario

1 A. Well, they took them over  
2 from us, let us say. They went to the dealer and  
3 said, "We will sell to you now all the magazines  
4 and all of the books, it is not necessary for you  
5 to take anything from Kitchener News Company".

6 Q. And did they succeed then  
7 with two of these dealers in taking them over?

8 A. Yes, they returned all  
9 of their goods to us. They installed very nice  
10 racks in both of these accounts.

11 Q. At whose cost?

12 A. I don't know but I would  
13 imagine at Metro Toronto News Company's cost.

14 Q. Incidentally, have you made  
15 any survey recently of dealers, retailers in  
16 the Kitchener area concerning the service that  
17 they prefer, that is, service through Kitchener  
18 News Company or Metro Toronto News Company?

19 A. I had it suggested to me  
20 on Thursday of last week, after leaving here, that  
21 possibly the ordinary dealers should be heard from  
22 and so, therefore, I did have the routemen, the  
23 drivers go out and on all the accounts they were  
24 going to visit that day I asked them to ask the  
25 dealer to sign a petition, yes.

26 Q. Do you have those petitions  
27 or statements with you?

28 A. Yes, I do.

29 Q. Would you just explain what  
30 it is that you have there? Would you read the top





1 part before the list of names?

2 A. Dated July, 1971. This  
3 was done last Friday.

4 "  
5 To Whom it may Concern:  
6 Please let it be known that  
7 we the undersigned have done  
8 business with Kitchener News  
9 Company for a good length of  
10 time and that we resent being  
11 forced to take magazines from  
12 a supplier other than  
13 Kitchener News. We want a  
14 local supply on all our  
15 periodicals from the Kitchener  
16 News Company."

17 Q. How many dealers or retailers  
18 were approached?

19 A. 72. There were more than 72  
20 approached but the chain people in almost every  
21 instance, not in every one because I see we have  
22 some chain signatures, but in most instances said  
23 they would have to consult with their head office  
24 before they signed, but we approached 72 accounts,  
25 individual accounts.

26 Q. And what was the result of  
27 that approach, how many signatures did you obtain?

28 A. 68.

29 MR. HOLLAND: May that be the next  
30 exhibit, Mr. Chairman?







1 THE CHAIRMAN: That will be a  
2 package, Exhibit No. 32.

3 ---EXHIBIT NO. 32: Package, containing signatures  
4 to petition.

5 MR. HOLLAND: Q. I notice that in  
6 the last exhibit the word "forced" was used. What  
7 did you mean by that word?

8 A. I don't know frankly. They  
9 signed it and they read it. If they can't have  
10 the supply from us so they have no alternative but  
11 to buy from Metro.

12 Q. Then, during the examination  
13 and cross-examination of the last witness, there  
14 was some evidence about a possible competitor in  
15 the Kitchener area to TV Guide and I have here  
16 a document that is primarily yellow and which talks  
17 about Kitchener-Waterloo-Guelph Entertainment Guide.  
18 Are you familiar with that?

19 A. Yes.

20 MR. HOLLAND: May this be the  
21 next exhibit, Mr. Chairman?

22 THE CHAIRMAN: Exhibit 33.

23 ---EXHIBIT NO. 33: Yellow bulletin entitled  
24 Kitchener-Waterloo-Guelph  
25 Entertainment Guide.

26 THE CHAIRMAN: It appears to be  
27 a flyer or a bulletin, addressed to Mr. Dealer,  
28 Box 4, Kitchener-Waterloo-Guelph Entertainment Guide  
29 coming soon."

30 MR. HOLLAND: Q. Now, will you please



1 tell us what you know about this possible competitor  
2 for TV Guide as it has been called in the Kitchener  
3 area?

4 A. A chap by the name of  
5 Ralph Johnson in Kitchener is a printer and he also  
6 publishes a publication Outdoor Ontario, I believe,  
7 which the Kitchener News Company has distributed  
8 and he has had in his mind a local entertainment  
9 guide for some months, according to the information  
10 which Lou Hill gave to me, and he wanted to come  
11 around and see us and see what the possibilities  
12 were of publishing and the distributing. He  
13 would publish it and he asked us to distribute it.

14 Q. And did you agree to do that?

15 A. Yes, sir.

16 Q. And has this magazine  
17 been published, to your knowledge?

18 A. No, he had every confidence  
19 it would be and with that, his assurance that it  
20 would be, we put out these flyers to all the  
21 dealers. Subsequent to that he found that he  
22 couldn't gear up for the end of June and stated  
23 that it was an indefinite postponement but that  
24 he hoped it would be back this Fall.

25 THE CHAIRMAN: Would you find out  
26 please when it was that the witness was approached  
27 by Mr. Johnson and when this was produced,  
28 Exhibit 33?

29 MR. HOLLAND: Q. You heard the  
30 Chairman's question?





1 A. Well, I met Mr. Johnson  
2 after we had taken over the Kitchener News  
3 Company and after we lost TV Guide.

4 THE CHAIRMAN: Did he attend upon  
5 you, did he call you or did you call him?

6 THE WITNESS: When Lou Hill told  
7 me about this I asked him to give him a call but  
8 Lou said he was going to call us anyway.

9 MR. CAMP: Did he have a dummy of  
10 this as a pilot issue?

11 THE WITNESS: No.

12 MR. CAMP: Was it in colour or black  
13 and white?

14 THE WITNESS: It was in two colours.  
15 The magazine was going to be in black and white.

16 MR. CAMP: Did he tell you what he  
17 thought the first run would be?

18 THE WITNESS: Well, he asked us,  
19 he wanted a very large run but I advised him against  
20 it and I really didn't feel that it would be a  
21 very serious threat to TV Guide.

22 MR. CAMP: Is there cable television  
23 in Kitchener?

24 THE WITNESS: Yes, there is.

25 MR. CAMP: So it would include that?

26 THE WITNESS: Yes.

27 DR. JEANNERET: Basically,  
28 Mr. Cosgrove, as I understand it, you said it was  
29 his ambition entering into competition with an  
30 international and national TV Guide which is now







1 published with regional editions all over the place  
2 and he was hoping to compete with that but was  
3 going to do a strictly regional production, with  
4 regional content. The existing TV Guide having  
5 national editorial comment to draw upon. Is that  
6 what he was hoping to do?

7 THE WITNESS: He was hoping to make  
8 a little money. Our allotment on TV Guide --  
9 excuse me, Kitchener News allotment before I was  
10 there was something like 40,000 or 45,000 copies.  
11 What we agreed on, I scaled it down actually,  
12 on putting out the first issue of his publication  
13 was 5,000 copies. So it was going to take a  
14 different tack than TV Guide strictly. It was  
15 going to cover church functions, local club  
16 functions, it was going to have a section on buy-  
17 sell, he was also going to carry radio. So,  
18 I don't think he was looking to being too much of  
19 a competitor but I think he wanted into the  
20 market.

21 MR. CAMP: Is there any local  
22 advertising from Kitchener in the TV Guide, do you  
23 know?

24 THE WITNESS: I don't know.

25 MR. CAMP: Is there now?  
26  
27  
28  
29  
30





1 THE WITNESS: I don't know whether  
2 there is or not.

3 MR. CAMP: Do you know whether  
4 he planned to gear up his publication for a  
5 larger run later to evade St. Louis?

6 THE WITNESS: No.

7 MR. SEDGWICK: I didn't hear  
8 the question.

9 MR. CAMP: It was an aside. I  
10 wondered if he intended to evade St. Louis?

11 MR. SEDGWICK: Oh.

12 THE CHAIRMAN: I wonder if you could  
13 ask the witness this considered, proposed  
14 publication, which had not yet been published or  
15 produced, if it were to be produced in the form  
16 which is advertised Kitchener-Waterloo-Guelph?  
17 Is this the format you indicated in the manner  
18 proposed, or do you consider it would, in any way,  
19 be a competitor to TV Guide?

20 MR. HOLLAND: Q. You have heard  
21 the question?

22 A. I don't want to hurt the  
23 publisher's feelings. It would not be the TV  
24 Guide format. He could not get that size because  
25 it was too costly for him. He could not introduce  
26 colour. He could not even have the TV screen  
27 eye imprinted in his publication, as they do in  
28 TV Guide, and in the Toronto papers. He said,  
29 "If I can survive a year, maybe I can go to a  
30 TV Guide format and go colour".





1 MR. CAMP: Maybe a cow could fly.

2 Did he cover the wholesale distribution with you?

3 THE WITNESS: The dealer would  
4 be 10 cents.

5 MR. CAMP: Six cents?

6 THE WITNESS: 10 cents.

7 MR. CAMP: 10 cents. To the whole-  
8 saler?

9 THE WITNESS: 7-1/2 cents.

10 MR. CAMP: Very impressive.

11 THE CHAIRMAN: I take it the  
12 answer to the question is, no, he could not, in  
13 your opinion?

14 THE WITNESS: Not to any great  
15 degree.

16 DR. JEANNERET: Not as a product.

17 THE WITNESS: No.

18 MR. HOLLAND: Q. You told us you  
19 heard about this local TV guide, if we can call it  
20 that, from Mr. Hill. Was this after the transaction  
21 had closed?

22 A. Yes, I would think so.

23 Q. And was this also after the  
24 purchasers had already lost the franchise for  
25 Triangle Publications?

26 A. As far as I recollect, yes.

27 Q. I want to get away from this  
28 subject for a minute, Mr. Cosgrove. I want to ask  
29 you some questions about preferential rates.  
30 Do certain Ontario geographical wholesalers get a







1 better rate for some of the paperback publications  
2 than other Ontario geographical wholesalers?

3 A. Yes.

4 Q. Can you give us some examples  
5 of certain wholesalers who, to your knowledge, get  
6 a better rate than other wholesalers?

7 A. Let us say paperback books  
8 in Kitchener -- to my knowledge we had 44 per  
9 cent discount off cover, and somebody gets  
10 46 per cent discount off.

11 Q. How about Metro Toronto News  
12 when you were there?

13 A. By and large it ranges from  
14 46 to 50 per cent.

15 Q. So there can be a spread  
16 between 5 or 6 percentage points, between various  
17 Ontario geographical wholesalers on paperbacks?

18 A. I would say so.

19 Q. Is there any equivalent  
20 spread on magazines?

21 A. There are such things as  
22 better discounts and return allowances and that  
23 sort of thing.

24 Q. How does one Ontario geographical  
25 wholesaler get a better deal than another?

26 A. Persuasion.

27 Q. Does it have anything to do  
28 with volume?

29 A. I think it does, loosely, have  
30 something to do with volume, because, certainly,





1 publishers would listen to me, I think, a little  
2 bit more attentively as general manager of Metro  
3 Toronto News Company, than they would as general  
4 manager of Kitchener News Company, so I think  
5 that would have something to do with it.

6 Q. Did you, as general manager  
7 of Metro Toronto News Company, attempt to negotiate  
8 any of the discounts with the publishers?

9 A. When I first came in 1964,  
10 I attempted to negotiate with all of them because  
11 at that time, the discount being given to  
12 Metro Toronto News Company was 44 per cent and  
13 I think I succeeded in getting 46 per cent from  
14 virtually all.

15 Q. Did you have any further  
16 negotiations following the purchase of the 50 per  
17 cent interest by the Molasky family?

18 A. Not too much myself.

19 Q. Did any of the Molaskys  
20 enter into direct negotiations with the publishers  
21 to your knowledge as to the discount rate for  
22 Metro Toronto News Company?

23 A. Yes.

24 Q. Both of them, that is, Allan  
25 and Mark Molasky?

26 A. Yes.

27 Q. With any success?

28 A. Yes. I think in the early  
29 stages, most of this was carried on by George  
30 Carlton and Allan Molasky.





1 Q. George Carlton?

2 A. He was the former general  
3 the  
manager of/Pierce News Company Complex.

4 Q. Is he still with the company?

5 A. He is no longer with the  
6 company.

7 Q. Is this immediately after the  
8 purchase of the 50 per cent interest?

9 A. The first 50 per cent --  
10 immediately after the purchase, we were struck  
11 for two months, and I don't know whether or not  
12 my recall is that good, whether they were talking  
13 about prices at that time or not.

14 Q. Do you know at all whether  
15 or not, in trying to negotiate better prices they  
16 would rely on the volume of their American sales?

17 A. Yes.

18 Q. They would, or you don't know?

19 A. They would.

20 Q. Did they tell you that?

21 A. Yes.

22 Q. So that was part of the selling  
23 pitch to get the better price, is that it?

24 A. Yes.

25 THE CHAIRMAN: Would the negotiations  
26 from time to time take place with the national  
27 distributors in the United States, or publishers  
28 there or did they take place with either of the  
29 Molaskys, or any one elsewhere mentioned here,  
30 or a combination of both?







1 THE WITNESS: Mostly there,  
2 mostly in New York.

3 THE CHAIRMAN: Mostly in New York.  
4 Were you ever present at any of those negotiations?

5 THE WITNESS: No.

6 THE CHAIRMAN: So, therefore, you  
7 would be informed, from time to time, as to the  
8 result of these negotiations?

9 THE WITNESS: Yes, through George  
10 Carlton.

11 THE CHAIRMAN: In terms of the  
12 volume of negotiations of this kind, for these  
13 special prices, the bulk of these negotiations  
14 were conducted in this form, or were they conducted  
15 by you here, with the national distributors'  
16 representatives here?

17 THE WITNESS: Mostly there.

18 THE CHAIRMAN: Thank you.

19 MR. HOLLAND: Q. There has  
20 been some mention, I think, of Harlequin books.  
21 Is that a Canadian paperback?

22 A. Yes.

23 Q. Put out by a Canadian publisher?

24 A. Yes, sir.

25 Q. Do you remember at all what  
26 the discount was for Harlequin books with  
27 Metro Toronto News?

28 A. Harlequin, during my tenure,  
29 I think, came through Curtis, and I believe  
30 they billed us at 40 per cent discount. Then,





1 they granted another 6 per cent on sales, so,  
2 in effect, it was 46 per cent.

3 Q. And on some of the American  
4 paperbacks, it was 50 per cent?

5 A. Latterly on a few of the lesser  
6 lines, it was 50 per cent, yes.

7 Q. Most of them would be at  
8 46 per cent?

9 A. Most were 46.

10 Q. Again I want to switch the  
11 subject, Mr. Cosgrove, and I want to ask you  
12 a few questions about the ability of the retailer  
13 in Toronto, for example, to switch from Metro  
14 Toronto News to dealing direct with the North  
15 American distributor or the publisher. As I  
16 understand it, in Toronto there are certain  
17 retailers who deal through Metro Toronto News  
18 Company and certain retailers that deal direct?

19 A. Yes.

20 Q. And that was true when you  
21 were manager of the company?

22 A. Yes, sir.

23 Q. Now, how easy or difficult  
24 is it for a retailer to switch from being  
25 supplied by Metro Toronto News Company, or to  
26 being supplied direct by the North American  
27 distributor or the publisher?

28 A. I think, if any retailer  
29 were persistent in wanting to switch to direct  
30 supply, he would be ultimately supplied directly.





1 Q. You use the word "persistent" --  
2 "ultimate". Do I gather from that it is a rather  
3 difficult thing to do?

4 A. No. Let me say this: In  
5 my experience, if a dealer wants to go direct --  
6 I had that experience with a number of very  
7 large accounts. I didn't need my -- I did  
8 everything in my selling ability to convince them  
9 that our method meant more dollars in the till for  
10 them than they would earn themselves by dealing  
11 direct. I think you can't just say it goes  
12 in percentages. You have to put dollars in there  
13 too.

14 Q. Would you give us a few  
15 examples of these large accounts you are talking  
16 about?

17 A. Eaton's was one, Simpson's  
18 was another. I think Simpson's was before the  
19 sale of the agency. I believe Eaton's was after  
20 the sale. I am not certain about the dates.

21 Q. You say those two companies were  
22 interested in dealing direct, but that you  
23 talked them out of it?

24 A. Well, I think I showed them  
25 whereby they would lose sales, and I think dollars,  
26 if they were to go direct.

27 Q. Now ---

28 A. I hope I convinced them.

29 Q. Did you also try to bring any  
30 pressure to bear on the North American distributors







1 or publishers, so that the distributors or  
2 publishers would not supply them if they attempted  
3 to go direct?

4 A. I would try to influence the  
5 publisher not to sell to them direct, yes. I would  
6 do it continually because I don't think the  
7 economics are there for a small account, on  
8 either side.

9 Q. Let's talk about Simpson's  
10 and Eaton's: Would you consider those accounts  
11 to be small?

12 A. No, very large.

13 Q. In the case of Simpson's and  
14 Eaton's did you exert or attempt to exert any  
15 pressure on any publishers or North American  
16 distributors, so that they could not deal direct?

17 A. Well, I tried to convince  
18 them. I don't think I tried to exert any pressure.

19 Q. How would you try to convince  
20 them?

21 A. I tried to point out to them,  
22 as I pointed out to Eaton's, that in my opinion,  
23 they would lose volume if they were to go and  
24 supply Eaton's direct.

25 Q. And that was the only sort  
26 of convincing you would try to do?

27 A. I personally.

28 DR. JEANNERET: Could you find  
29 out why they would lose volume under this system?

30 MR. HOLLAND: Q. Why would .





1 a publisher or North American distributor lose  
2 volume should Eaton's or Simpson's go direct?

3 A.. Well, at that time, in  
4 servicing both Eaton's and Simpson's, we had  
5 a man, an experienced book man, who would be  
6 into the store, let us say, on Monday morning  
7 and he would detail the racks and look over  
8 those titles which he felt should be reordered  
9 through Eaton's and Simpson's. The tape was  
10 picked up at noon and brought up to our warehouse  
11 and that reorder was filled that afternoon and  
12 delivered the next morning.





1 They were dealing with one  
2 source. Their discount at that time was 30 per  
3 cent. If they were to deal with the publishers  
4 direct they would be dealing with I don't know  
5 how many, maybe 14 and might be dealing with 14  
6 different individuals, it meant putting through  
7 purchase orders for 14 different companies, it  
8 meant paper work for 14 different companies, it  
9 meant waiting on the orders to my mind anyway.  
10 It was not as fast, it was not as immediate.

11 THE CHAIRMAN: The point of the sale  
12 here is a matter of service?

13 THE WITNESS: Correct.

14 DR. JEANNERET: But you bought from  
15 the same sources that you were seeking to dissuade  
16 them from buying generally speaking?

17 THE WITNESS: Generally speaking,  
18 yes.

19 DR. JEANNERET: And you might be  
20 short and the publisher might not have stock in which  
21 case you couldn't fill or it might be the other  
22 way around or less likely?

23 THE WITNESS: You see, if we were  
24 short and just as we do on magazines, there  
25 was all the possibility of picking up copies at  
26 another account where the sale of a given title  
27 was not as fast it was in town A.

28 DR. JEANNERET: Well, as a wholesaler  
29 did you give that degree of service or seek to,  
30 that if you received an order for specific titles





1 you would report it and even go so far as to try  
2 to pick them up?

3 THE WITNESS: At times we would.

4 DR. JEANNERET: This is an interesting  
5 observation.

6 MR. HOLLAND: Q. Mr. Cosgrove,  
7 you indicated the discount to Eton's and Simpsons  
8 I think was 30 per cent?

9 A. Yes, sir.

10 Q. If they bought directly it  
11 would be 40 per cent?

12 A. 40 per cent.

13 Q. As a result of Eaton's  
14 threatening to go direct they get 35 per cent?

15 A. Yes, sir.

16 MR. HOLLAND: Those are all the  
17 questions I have.

18 DR. JEANNERET: Under what  
19 circumstances did they go to 35 per cent?

20 MR. HOLLAND: As a result of the  
21 threat to go direct. Those are all the questions  
22 I have for this witness, Mr. Chairman.

23 THE CHAIRMAN: We would like to just  
24 break for a very few minutes before we proceed,  
25 about five minutes this time.

26 ---Recess.

27  
28 THE CHAIRMAN: Can we now proceed,  
29 Mr. Holland? Have you further questions?

30 MR. HOLLAND: No, Mr. Chairman, thank you.





1 THE CHAIRMAN: Mr. Sedgwick?

2 We would like to ask some questions.

3 MR. SEDGWICK: That is fine.

4 MR. CAMP: I want to ask some  
5 questions to expand on your relationships. You  
6 were General Manager of Metro Toronto News?

7 THE WITNESS: Yes, sir.

8 MR. CAMP: Was this a position which  
9 involved salary and bonus or salary and commission  
10 or straight salary?

11 THE WITNESS: Straight salary until  
12 I guess in the last year I was given a 1 per cent  
13 bonus.

14 MR. CAMP: Based on sales?

15 THE WITNESS: Based on sales.

16 MR. CAMP: Or on profit?

17 THE WITNESS: On profit.

18 THE CHAIRMAN: On profit or on sales?

19 THE WITNESS: On net profit.

20 THE CHAIRMAN: 1 per cent on net  
21 profit?

22 THE WITNESS: Yes.

23 MR. CAMP: So that in the six and  
24 one-half years that you were there with the  
25 exception of the last year which would be 1970,  
26 you got no bonus or no commission but you just  
27 got salary?

28 THE WITNESS: Yes.

29 MR. CAMP: But in the sixth year  
30 before you were invited to leave you were given this





Toronto, Ontario

1 new arrangement by which you would get a commission  
2 on sales?

3 THE WITNESS: Yes.

4 MR. CAMP: Did you initiate that  
5 yourself or was it volunteered by your employers?

6 THE WITNESS: I think I mentioned  
7 it to him..

8 MR. CAMP: Was your salary increased  
9 while you were there?

10 THE WITNESS: Yes, it was.

11 THE CHAIRMAN: Who was "him" that  
12 you referred to?

13 THE WITNESS: Allan Molasky.

14 MR. CAMP: You got salary increases  
15 while you were there?

16 THE WITNESS: I did.

17 MR. CAMP: Annually?

18 THE WITNESS: No, I had one increase  
19 shortly after Allan took over and I didn't have  
20 an increase from then. I negotiated with him  
21 a 2½ per cent --

22 MR. CAMP: With whom?

23 THE WITNESS: Allan Molasky --  
24 2½ per cent bonus on all profits over \$600,000  
25 a year.

26 MR. CAMP: What year was that, do you  
27 know?

28 THE WITNESS: That was in 1969, I  
29 believe.

30 MR. CAMP: Effective in 1969?





1 THE WITNESS: Yes. Subsequent to  
2 that it was changed to 1 per cent on all net  
3 profit.

4 MR. CAMP: Did you profit from that  
5 arrangement in 1969?

6 THE WITNESS: No, I did not.

7 MR. CAMP: Just to clear up another  
8 matter, you told the Commission that you had  
9 obviously a number of bosses and you got a lot  
10 of direction or at least you got direction from  
11 a number of people?

12 THE WITNESS: Yes.

13 MR. CAMP: From St. Louis?

14 THE WITNESS: Yes.

15 MR. CAMP: Was there any directive  
16 in regard to adding Canadian publications in  
17 Canada or Ontario or Toronto? Would you do this  
18 independently or had you to clear it first with  
19 St. Louis?

20 THE WITNESS: I would do that  
21 independently.

22 MR. CAMP: You were under no  
23 restraint?

24 THE WITNESS: No, sir.

25 MR. CAMP: Could you give us the  
26 circulation pattern of the sales of TV Guide in  
27 Metro Toronto during your administration, if that  
28 is the right term there?

29 THE WITNESS: I am glad you asked  
30 that question. Before the Pierce group took over



1 Metro Toronto News Company, we were the largest  
2 sellers of TV Guide in the world through one  
3 agency, in the world.

4 MR. CAMP: Would you say that again  
5 because believe it or not, I didn't hear it.

6 THE WITNESS: I say we had the  
7 largest sale of TV Guide of any single agency in  
8 the world.

9 MR. CAMP: When was that?

10 THE WITNESS: I think in 1968, 1967.

11 MR. CAMP: That was before Pierce  
12 took over?

13 THE WITNESS: Well, it was before  
14 an amalgamation of two agencies in the United  
15 States which meant that they surpassed us.  
16 I believe it was Ashbury Park in New Jersey and  
17 when they combined the two sales they surpassed  
18 what we were selling at that time. Our sale  
19 was at the peak over 200,000 copies an issue.  
20 Then we dropped from there when the Toronto Star  
21 came out with their supplement.

22 MR. CAMP: You lost some of your  
23 competitive advantage because of newspaper supplements,  
24 is that what you say?

25 THE WITNESS: Yes.

26 MR. CAMP: By the local medium in the  
27 area. Now, you explained that you were asked to  
28 leave Metro News by your employers because they  
29 were not satisfied with the company's performance  
30 in terms of its balance sheet and you indicated that



Toronto, Ontario

1 you weren't either. Was there any other management  
2 problem at that time?

3 THE WITNESS: None that would have  
4 precipitated this, I don't think.

5 MR. CAMP: Were there not some  
6 problems with regard to some of the employees of  
7 the company?

8 THE WITNESS: Barry Walsh leaving  
9 to go to London?

10 MR. CAMP: No, I had assumed that  
11 there had been some problems with regard to  
12 pilferage.

13 THE WITNESS: No, that was after.

14 MR. CAMP: After you left?

15 THE WITNESS: When the alleged  
16 pilfering took place it was during my tenure  
17 supposedly but I didn't have trouble with the  
18 employees. Maybe if you could explain yourself  
19 more fully I could understand what you are  
20 getting at.

21 MR. CAMP: I thought maybe you  
22 would explain it more clearly for me Mr. Cosgrove,

23 THE WITNESS: I had a good relation-  
24 ship with the employees.

25 MR. CAMP: With the employees, but  
26 you were not aware that this was a fact that there  
27 had been some losses of periodicals and paperbacks?

28 THE WITNESS: From time to time we  
29 were aware that there were some losses. At one  
30 time we had 600 Playboy disappear from our







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1 warehouse. And fortunately at that time we caught  
2 it. I had a private investigative company look  
3 into it and as a result two drivers and one ex-  
4 driver were charged.

5 MR. CAMP: Were charged?

6 THE WITNESS: Were charged.

7 MR. CAMP: They were brought to  
8 justice?

9 THE WITNESS: They were brought to  
10 justice.

11 MR. CAMP: Nothing further to that,  
12 though, from that time to your leaving of that  
13 nature?

14 THE WITNESS: Not to that degree.  
15 We built a stockade to try to protect some of our  
16 merchandise but not to that degree, but from time  
17 to time something would come up. I thought we  
18 had done everything in our power to avoid it.

19 MR. CAMP: Is this rather a common  
20 problem in the industry?

21 THE WITNESS: It is a common problem  
22 anywhere, from what I read in the newspapers and  
23 magazines. If that is true it is becoming more  
24 pronounced but I will tell you I was very surprised.

25 MR. CAMP: Just to conclude this  
26 matter, there was no indication given to you by  
27 your employers when your employment ceased, that  
28 this was a particular problem and that they had  
29 some idea that you had some responsibility over  
30 your employees in this regard?



1 THE WITNESS: I suppose I did have  
2 responsibility, yes.

3 MR. CAMP: Did they mention this  
4 to you as part of their dissatisfaction?

5 THE WITNESS: Well, Mark Molasky  
6 said to me that I knew that pilfering was going on  
7 and if I knew that pilfering was going on, had  
8 I done anything to try and stop it.

9 MR. CAMP: He said that?

10 THE WITNESS: He said, I did know  
11 it was going on.

12 MR. CAMP: How did he know that  
13 you knew it was going on? Had you reported it?

14 THE WITNESS: I had not reported it,  
15 no. You see, the year-end statement was the only  
16 indicator of a definitive nature that we had of  
17 the extent of the pilfering, the shrinkage.

18 MR. CAMP: Well now, could you tell  
19 us please, on the year end statement in what way  
20 would this indicate that there was pilferage?

21 THE WITNESS: Well, there is pretty  
22 well an accepted pattern. It varies from agency  
23 to agency but it is a measurement guide on what  
24 you are doing when you compare the difference between  
25 cost of sales --

26 MR. CAMP: There would be some  
27 discrepancy between returns on sales, I assume?

28 THE WITNESS: Some discrepancy  
29 between -- your spread between the cost of sales,  
30 your dealer sales and your cost of sales or profit.



1 MR. CAMP: In any event,

2 Mr. Mark Molasky told you that he knew?

3 THE WITNESS: He said to me that I  
4 knew that there was pilfering going on.

5 MR. CAMP: And you concluded from  
6 that that he knew. that you were taking  
7 any action?

8 THE WITNESS: No.  
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1 MR. CAMP: And you don't know  
2 now whether or not the new general manager or  
3 the company did anything particular about this  
4 after you left?

5 THE WITNESS: I understand they  
6 wired the place, they turned it into a maximum  
7 security agency. They have internal TV and that  
8 sort of thing.

9 MR. CAMP: So in the last analysis,  
10 or next to last analysis, do you think this was,  
11 or was not, part of the reason for your  
12 dismissal by your employers? Let us put it this  
13 way, in the minds of your employers?

14 THE WITNESS: I would think so.  
15 They said it and I would say there was some  
16 sound reasons for -- I say, I think it was one  
17 of the reasons, yes.

18 MR. CAMP: When you were -- do  
19 you know whether or not there were any further  
20 prosecutions as a result of the new manager  
21 coming on the stream at Metro?

22 THE WITNESS: You say further  
23 prosecutions?

24 THE CHAIRMAN: You said there had  
25 been some drivers brought to justice, as you put  
26 it, in terms of Playboy Magazine disappearing?

27 THE WITNESS: That was some time  
28 ago.

29 MR. CAMP: Anything of that nature  
30 afterwards happen, after you left?



1 THE WITNESS: Only hearsay.

2 I have been told that they had quite a lot of  
3 interviews with a lot of drivers.

4 MR. CAMP: They interviewed the  
5 drivers?

6 THE WITNESS: Questioned them.

7 MR. CAMP: That is, the company  
8 questioned them?

9 THE WITNESS: The company did.

10 MR. CAMP: When you were general  
11 manager, did the parent company, Pierce News,  
12 have annual sales meetings?

13 THE WITNESS: No, sir.

14 MR. CAMP: They didn't?

15 THE WITNESS: No.

16 MR. CAMP: If a company is doing  
17 32 million dollars and it doesn't even have a  
18 sales meeting -- I have to accept your answer.  
19 Could they have had sales meetings to which you  
20 were not invited?

21 THE WITNESS: Possibly.

22 MR. CAMP: You don't know that  
23 they did?

24 THE WITNESS: I don't know.

25 DR. JEANNERET: The kind of  
26 pilfering in a firm such as yours, as a wholesaler  
27 is vulnerable to, is the kind that normally  
28 requires a solution, I presume, between drivers  
29 and retailers, your retailers and someone else's  
30 retailers, is that generally true, in order to





1 market periodicals and things of that nature?

2 THE WITNESS: Well, if they  
3 were to steal the goods, they would have to have  
4 some outlet.

5 DR. JEANNERET: A prompt outlet.

6 THE WITNESS: Prompt? I suppose.

7 DR. JEANNERET: So that the kind  
8 of pilfering that would worry you would be, I  
9 presume, collusion between drivers and retailers,  
10 between whom there was contact? It might be the  
11 area of misreporting returns too, although I  
12 presume the distributor gets interested in that,  
13 does he supervise the return reporting procedure  
14 with the torn covers, as I understand it?

15 THE WITNESS: Returns are, as  
16 far as possible, validated.

17 DR. JEANNERET: The whole  
18 periodical is returned? You mean at Metro  
19 News you did not receive -- did not credit returns  
20 except when you received back the whole physical  
21 periodical?

22 THE WITNESS: With the exception  
23 of contributors, yes. We asked for the whole  
24 periodical back.

25 DR. JEANNERET: When you claimed  
26 credit from the distributor you would claim  
27 torn covers?

28 THE WITNESS: We would provide  
29 the cover headings.

30 DR. JEANNERET: In the case of







1        paperbacks as well as periodicals, some of them  
2        are torn, but not always did you receive them?  
3        What I mean by that is that not all publishers  
4        of paperbacks accepted torn covers on the paperbacks?

5                    THE WITNESS:    Some publishers would  
6        give you a return, but would ask that the book  
7        be in a resaleable condition. With distributions  
8        and redistributions, and sometimes dealers would  
9        want it to identify the book.

10                   DR. JEANNERET:    That is tantamount  
11        to a short discount. You procured and procure  
12        your paperbacks, your mass market paperbacks,  
13        normally from where? From the publishers?

14                   THE WITNESS:    From the publishers  
15        and North American distributors, both.

16                   DR. JEANNERET:    Or from the  
17        publishers' representatives, in the case of  
18        Canada. When the publisher had a Canadian  
19        representative, would you normally purchase from  
20        the States, or would you purchase from the  
21        representative, or would you take your choice?

22                   THE WITNESS:    We would purchase  
23        from the Canadian representative.

24                   DR. JEANNERET:    If it were handled  
25        here?

26                   THE WITNESS:    If you were setting  
27        your orders, you would purchase from the Canadian  
28        representative usually.

29                   DR. JEANNERET:    Accepting his  
30        Canadian list price, as he set it, mark it up





1 very often from the foreign list price, usually  
2 an American list price, and taking the discounts  
3 from the marked up list price in Canada, normally?

4 THE WITNESS: Most carry the  
5 same price, in the States and in Canada.

6 DR. JEANNERET: You are saying  
7 most paperbacks carry the same cover or list price,  
8 in the United States and in Canada?

9 THE WITNESS: I think so, yes.

10 DR. JEANNERET: That surprises me,  
11 but I accept your statement for the moment.  
12 Certainly. One other question: In purchasing  
13 from the publishers, was the right to resell  
14 outside the prescribed geographical area normally  
15 a restriction placed on the sale or condition  
16 of your purchase from the publisher in the case  
17 of paperbacks?

18 THE WITNESS: No.

19 DR. JEANNERET: I had not  
20 understood your earlier testimony to the effect  
21 that, for example, Kitchener News provides 45  
22 per cent and Fred O'Brien in Kitchener could buy  
23 at 46 per cent and it is not comparable, although  
24 there is an overlap. Would there be a strong  
25 temptation for any dealer to purchase from a  
26 wholesaler outside this area if that wholesaler  
27 was able to get his products at a preferred  
28 discount and perhaps be able to pass one on?

29 THE WITNESS: You mean if Fred  
30 O'Brien were to come into the Kitchener area and



1 get it at 32 per cent instead of 30?

2 DR. JEANNERET: For argument's  
3 sake.

4 THE WITNESS: Yes.

5 DR. JEANNERET: It did not work  
6 that way. The geographical areas are respected  
7 in general, in the supply of paperbacks, just as  
8 for periodicals? For periodicals it is easy  
9 to understand. There is a short life on them, but  
10 in paperbacks it is a little longer.

11 THE WITNESS: Generally, with the  
12 exception of the educational market, you can  
13 confine your activities to your own area.

14 MR. CAMP: During your 6-1/2  
15 years as general manager of Metro Toronto News,  
16 were you ever in St. Louis?

17 THE WITNESS: I was in St. Louis  
18 in December of last year.

19 MR. CAMP: What was the occasion?

20 THE WITNESS: Mark Molasky had  
21 just taken over as, I think at that time, executive  
22 vice-president. Mark was then to be running the  
23 company and Mark came up here and invited me back  
24 to St. Louis to see how they were doing things  
25 down there.

26 MR. CAMP: It wasn't a convention  
27 of distributors or sales people at the same time?

28 THE WITNESS: Not at the time,  
29 no.

30 MR. CAMP: That is the only time







1 in 6-1/2 years you were there?

2 THE WITNESS: That was the only  
3 time I was in St. Louis. The Molaskys owned the  
4 company for only two years during my tenure there.

5 THE CHAIRMAN: Before you joined  
6 Metro News in the first instance, 1964, where were  
7 you before that?

8 THE WITNESS: I was in New York  
9 City.

10 THE CHAIRMAN: How long were  
11 you in New York City?

12 THE WITNESS: About nine years.

13 THE CHAIRMAN: Before that?

14 THE WITNESS: I was in Detroit,  
15 in Des Moines, Iowa, and in Toronto.

16 THE CHAIRMAN: Are you Canadian  
17 or American?

18 THE WITNESS: I am Canadian.

19 THE CHAIRMAN: Did you have a written  
20 contract of employment with Metro Toronto News  
21 or any one of the companies associated with them?

22 THE WITNESS: No, sir.

23 THE CHAIRMAN: You did not. When  
24 you left the employment of Metro Toronto News,  
25 did you sign any document of release, or any  
26 document of any kind, in connection with your  
27 discharge?

28 THE WITNESS: Just a letter of  
29 resignation.

30 THE CHAIRMAN: Who prepared the



1 letter?

2 THE WITNESS: Ultimately, Allan  
3 Molasky prepared the letter.

4 THE CHAIRMAN: You approved of  
5 the letter and signed it?

6 THE WITNESS: I signed it, yes.

7 THE CHAIRMAN: But it was  
8 prepared by Allan Molasky?

9 THE WITNESS: So far as I know  
10 it was prepared by Allan Molasky. He did not  
11 prepare it in front of me.

12 THE CHAIRMAN: Did he present  
13 it to you for your signature?

14 THE WITNESS: Yes.

15 THE CHAIRMAN: About when was that?

16 THE WITNESS: Time of day?  
17 The 19th, I believe, of January.

18 THE CHAIRMAN: 19th of January?

19 THE WITNESS: Yes.

20 THE CHAIRMAN: And when had you  
21 been informed by Allan or Mark, or whichever ---

22 THE WITNESS: On the 19th of  
23 January.

24 THE CHAIRMAN: You had either the  
25 choice of resigning or having your employment  
26 terminated?

27 THE WITNESS: That is right.

28 THE CHAIRMAN: And the letter was  
29 produced the same day and was signed by you?

30 THE WITNESS: Yes.





1 THE CHAIRMAN: And it was delivered  
2 by Allan Molasky?

3 THE WITNESS: Yes.

4 THE CHAIRMAN: In what capacity  
5 did you think you were dealing with him, as  
6 president of Metropolitan Toronto News, or  
7 Metropolitan Toronto News Company Limited, or what?

8 THE WITNESS: Well, I don't know  
9 what his official title was, but he was the boss.

10 THE CHAIRMAN: He was the boss?

11 THE WITNESS: Yes.

12 THE CHAIRMAN: I wonder, Mr.  
13 Sedgwick, if that letter might be filed and  
14 we would like to see it sometime?

15 MR. SEDGWICK: I cannot conceive  
16 what relation this has to the inquiry, but I  
17 will try to find it.

18 THE CHAIRMAN: We are asking you  
19 to produce it.

20 MR. SEDGWICK: I will look.

21 THE CHAIRMAN: When you were  
22 with Metro Toronto News, did you, from time to  
23 time, have any dealings with Mr. Lichtenberg  
24 of Triangle?

25 THE WITNESS: On occasion.

26 THE CHAIRMAN: What dealings  
27 would you have with him, would he come here, or  
28 would you talk with him on the telephone, what  
29 kind of dealings?

30 THE WITNESS: I think he made at







1 least one visit here and this was before the  
2 Pierce interest. Mr. Swindon had a cocktail  
3 party at his home and had dinner. Subsequent  
4 to that, I guess I spoke to him on the phone a  
5 couple of times. Mostly I did business with  
6 Mr. Northorp here in Toronto.

7 THE CHAIRMAN: Did you have any  
8 direct dealings by telephone or in person with  
9 Mr. Lichtenberg after the Molasky's took over  
10 the business in 1969?

11 THE WITNESS: Yes.

12 THE CHAIRMAN: Did you have any  
13 direct dealings with him?

14 THE WITNESS: I probably did on  
15 the phone.  
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Toronto, Ontario

1 THE CHAIRMAN: Were there any  
2 complaints about Metro News' handling of the  
3 TV Guide?

4 THE WITNESS: Yes, at one time  
5 Mr. Joe Scully who was on Mr. Lichtenberg's staff  
6 and I in my office in Toronto, due to a complaint  
7 that some dealers were not getting the TV Guide.  
8 I think these dealers were located in Etobicoke.  
9 One specifically was Steinberg's and some located  
10 in Midland and I think Huntsville or Bracebridge.  
11 Specifically there were complaints, yes.

12 THE CHAIRMAN: Were there any  
13 complaints to you from Mr. Lichtenberg direct,  
14 person to person?

15 THE WITNESS: Not that I recall.

16 THE CHAIRMAN: Was your relationship  
17 with Mr. Lichtenberg at all times a happy one or  
18 did you quarrel or did he complain about the way  
19 you were performing or your company here?

20 THE WITNESS: To me personally, no.  
21 My relationship I thought was splendid.

22 THE CHAIRMAN: And any complaints  
23 you did get on TV Guide were through the gentlemen  
24 you spoke of or through Mr. Northorp?

25 THE WITNESS: By and large yes, with  
26 the exception of that one visit from Mr. Scully  
27 and I think there is somebody else there, I  
28 don't recall at the moment.

29 THE CHAIRMAN: Were you able in most  
30 instances to meet or rectify the complaints that were





1 brought forward?

2 THE WITNESS: We did the best we  
3 could.

4 THE CHAIRMAN: In connection with  
5 the arrangements under which you worked after the  
6 Molaskys became involved, what was your under-  
7 standing of the participation of the Rottman  
8 family? Did they have any participation in the  
9 firm in terms of management or policy, or  
10 anything of this description?

11 THE WITNESS: No, I don't believe  
12 so. Mickey Rottman, I think, came up to Toronto  
13 twice.

14 THE CHAIRMAN: Did you see him on  
15 any of those occasions?

16 THE WITNESS: I saw him on one  
17 occasion and maybe on two. Mickey Rottman did  
18 not come to Toronto to my knowledge all during  
19 the time, let us say, pre-Pierce News Company.

20 THE CHAIRMAN: I wonder, Mr. Sedgwick,  
21 at this stage if you have had any progress in  
22 supplying the documents in connection with  
23 management that we have asked for in this  
24 connection? The sooner you can produce that the  
25 more helpful it will be to the Commission.

26 Now, you told Mr. Camp in response  
27 to a question that you had to consult with  
28 management of Pierce in regard to hiring personnel  
29 and so on. Was this consultation with officers  
30 here or did you do this by telephone with St. Louis







1 or how did you do this?

2 THE WITNESS: Both, both here and  
3 St. Louis. We were in constant telephone  
4 communication.

5 THE CHAIRMAN: Was there any question  
6 in your mind who the boss was or where the company  
7 was being run from in terms of policy?

8 THE WITNESS: No.

9 THE CHAIRMAN: Where was that?

10 THE WITNESS: Well I expressed that  
11 unhappiness that Allan Molasky ultimately called  
12 the shots but Bob Bernstein called the shots  
13 on paperbacks.

14 THE CHAIRMAN: Who is Bob Bernstein?

15 THE WITNESS: Bob Bernstein is  
16 no longer with Molasky.

17 THE CHAIRMAN: What did he do?

18 THE WITNESS: He was director of  
19 book sales,

20 THE CHAIRMAN: Did he call the  
21 shots?

22 THE WITNESS: Well, Bob put in his  
23 systems of handling books.

24 THE CHAIRMAN: By "handling"  
25 does that mean the acquisition of titles and things  
26 of this kind?

27 THE WITNESS: Yes, to a degree.

28 THE CHAIRMAN: What other parts of  
29 the system did he handle?

30 THE WITNESS: Primarily everything to





1 do with paperbacks.

2 THE CHAIRMAN: And what is "everything  
3 to do with paperbacks" in your understanding of  
4 the system? Bear in mind we are trying to learn.

5 THE WITNESS: The ordering of  
6 paperbacks from the suppliers. I don't mean  
7 ordering title by title but I mean ordering X number  
8 per month. At times arranging special promotions  
9 with the publisher and purchasing X number of  
10 displays and doing that through St. Louis for  
11 all of the cities -- Kansas City, New Orleans,  
12 St. Louis and Toronto. The method of handling  
13 returns, the physical handling of returns and that  
14 sort of thing.

15 THE CHAIRMAN: I daresay then that  
16 if this kind of management control was in the  
17 hands of someone else, this would really affect,  
18 would it not, how your end of it performed, it  
19 would affect your balance sheet and profit and  
20 loss?

21 THE WITNESS: Well, not if they  
22 attribute it to pilferage.

23 THE CHAIRMAN: What other people  
24 were you concerned with?

25 THE WITNESS: George Croll.  
26 for a time was the Manager. For a time all this  
27 was coming through George Croll.

28 THE CHAIRMAN: Where was he located?

29 THE WITNESS: At St. Louis.

30 THE CHAIRMAN: When did this terminate?







1 THE WITNESS: It terminated when  
2 the mess had pretty well all been cleaned up.  
3 Two months' strike is a difficult thing to go  
4 through and recovery from a two-month strike is  
5 even more difficult.

6 THE CHAIRMAN: Were there any other  
7 persons involved?

8 THE WITNESS: They sent a chap up,  
9 a warehouseman from St. Louis, to instal their  
10 systems and their kind of thing in Toronto.

11 MR. CAMP: Mr. Cosgrove, I have  
12 one question that deals with the letter that  
13 was presented to you by Allan Molasky for your  
14 signature to terminate your employment. What was  
15 it that in your mind obliged them to have a  
16 letter signed by you? It is not the usual way  
17 of being fired.

18 THE WITNESS: I don't know. You  
19 mean why they wanted a letter?

20 MR. CAMP: Yes.

21 THE WITNESS: Well, never having  
22 resigned before or never having been fired before,  
23 I didn't have any prior experience.

24 THE CHAIRMAN: I suppose Allan  
25 Molasky would have to answer that question?

26 THE WITNESS: Yes.

27 MR. CAMP: Was there any termination  
28 agreement as regards severance pay or anything like  
29 that?

30 THE WITNESS: Two weeks.







1 MR. CAMP: Well, you are entitled  
2 to that under the law of the land, are you not?

3 THE WITNESS: Yes.

4 MR. CAMP: So that was not a factor.  
5 Perhaps the author can tell us.

6 MR. SEDGWICK: Who?

7 MR. CAMP: The author.

8 THE CHAIRMAN: Allan Molasky.

9 DR. JEANNERET: May I ask one  
10 question? You were referring to Mr. Bernstein,  
11 I think, as calling the shot with regard to paper-  
12 back supply, not title by title but X number  
13 of copies per month. In effect you were given  
14 a quota of purchasing, as I understand it, from  
15 each of the various national distributors or  
16 publishers in the paperback field, is that right?

17 THE WITNESS: Yes.

18 DR. JEANNERET: And this quota  
19 was decided in St. Louis?

20 THE WITNESS: It was decided on a  
21 trip that Bob Bernstein made here to Toronto in  
22 the Fall of 1969.

23 DR. JEANNERET: Well, were you  
24 operating upon a fixed quota distributor by  
25 distributor?

26 THE WITNESS: We had been, yes.

27 DR. JEANNERET: And that situation  
28 continued up until the time you left more or less?

29 THE WITNESS: With some changes, yes.

30 DR. JEANNERET: Those changes could





1 be made not at your option?

2 THE WITNESS: Well, if I recommended  
3 a change they would consider this, yes.

4 DR. JEANNERET: I see.

5 MR. CAMP: Was TV Guide put  
6 into Mac's Milk during your time?

7 THE WITNESS: Yes. It was put into  
8 Mac's Milk preceding my time.

9 MR. HOLLAND: I have no further  
10 questions, Mr. Chairman.

11 THE CHAIRMAN: Have you any cross-  
12 examination, Mr. Sedgwick?

13 MR. SEDGWICK: I am a little tired  
14 but I am grateful for the opportunity, bleak though  
15 it be.

16

17 CROSS-EXAMINED BY MR. SEDGWICK:

18 Q. When did the Molaskys take  
19 over Metro News?

20 A. In January, 1969.

21 Q. What was your salary when  
22 they took it over?

23 A. I would say in the vicinity  
24 of \$25,000 plus car allowance -- in that vicinity.  
25 I could obtain that for you if you want to know it.

26 Q. I don't care for a dollar.  
27 While the Molaskys were there it was increased to  
28 what?

29 A. I think considering every-  
30 thing not including the bonus but including car,





1 it was about \$30,000.

2 Q. I am told it was \$30,000  
3 plus the car?

4 A. It may have been, I could  
5 check that.

6 Q. I am just testing your  
7 memory. I find it difficult to forget a year  
8 or two ago but I see that you do. I suggest to  
9 you it was \$30,000 plus the car?

10 A. It may have been, yes.  
11 \$551 a week.

12 Q. That was take-home pay?

13 A. No, plus a car.

14 Q. And then about a year or  
15 two before you left, this bonus system was  
16 instituted under which you were to get 1 per cent  
17 of net profits, is that correct?

18 A. 1 per cent, yes.

19 Q. Was it 1 per cent?

20 A. Yes, 1 per cent.

21 Q. Now, as to the occasion --  
22 first let me ask you this: when the Pierce News  
23 took over, I take it they were interested in  
24 installing systems that had proved effective for  
25 them in their United States operations, is that  
26 correct?

27 A. I believe so.

28 Q. And don't you think that was  
29 not only right but proper?

30 A. Good business practice.







1 Q. Good business practice?

2 A. Yes.

3 Q. And they wanted to give

4 the operation in Toronto the benefit of their long

5 and wide experience in the United States, as

6 good businessmen?

7 A. I said yes, good business  
8 practice.

9 Q. There is nothing to  
10 criticize about it?

11 A. Oh, no.

12 Q. But as to what was offered  
13 to the public, as to the titles and so forth,  
14 Mr. Romanez said that he had complete control of  
15 that. Did the Pierce News people interfere with  
16 you in that regard at all?

17 A. No.

18 Q. That is you had the say  
19 of what titles would be available for the  
20 Canadian reading public? Now --

21 THE CHAIRMAN: Is that what  
22 you said?

23 THE WITNESS: Yes.

24 THE CHAIRMAN: What about the titles  
25 that were shipped in from Mr. Bernstein?

26 THE WITNESS: With that exception.

27 MR. SEDGWICK: Mr. Chairman,  
28 wouldn't it be better please if in my humble way  
29 I were permitted to conduct my own cross-examination?  
30 I assure you I have done it before, I assure you I





1 will do my best but it is not helpful to me or  
2 this Commission nor to the witness if I am  
3 continually chipped in and if answers that I get  
4 are not corrected but amended by the Commission.  
5 Surely the Commission is free-wheeling and in my  
6 view asked a great number of questions which had  
7 no relevance and I never said a word, not a word  
8 and words occurred to me. Might I not have similar  
9 rights and when I am finished there is nothing  
10 to prevent any member of the Commission from  
11 asking questions. I am sure you have done very  
12 well.





1 I think they have done very well,  
2 but surely, I shbuld be allowed to go on. I should  
3 not be interrupted.

4 THE CHAIRMAN: Mr. Sedgwick, I  
5 can assure you that it is not my intention to  
6 hinder you. We are here for the purpose of  
7 examining the facts and, as you well know, as the  
8 experienced counsel you are, when certain questions  
9 occur to people like us, as the matter proceeds,  
10 and since we are here to inquire into the facts,  
11 it is sometimes useful if the matter occurs, to  
12 inquire at that time, while it is fresh in the  
13 witness' mind.

14 On the other hand, I am very aware  
15 of the difficulty that, from time to time, it imposes  
16 on counsel.

17 MR. SEDGWICK: Of course, it does.

18 THE CHAIRMAN: If it is your wish  
19 to proceed in the fashion, without being interrupted,  
20 I am sure my colleagues and I will only be too  
21 pleased to withstand the temptation of augmenting  
22 your brilliant questions by interfering with you.  
23 Under those circumstances, sir, we will refrain --  
24 at least I will, but the questions you ask are  
25 so good that from time to time we are sorry.  
26 Please proceed.

27 MR. SEDGWICK: Neither sarcasm  
28 nor flattery befits you. (Laughter) It was  
29 a mixture of both.

30 THE CHAIRMAN: I have been







1 learning from you for so long ---

2 MR. SEDGWICK: We all have to  
3 do the best we can with the material we get.  
4 (Laughter)

5 Q. I have lost track of my question.  
6 I have even forgotten your name (laughter).

7 THE CHAIRMAN: I don't think you  
8 ever forget anything.

9 MR. SEDGWICK: I forget some  
10 things.

11 Q. Mr. Cosgrove, the question  
12 I put to you was: Speaking generally, and with  
13 some very rare exceptions, the titles, that is  
14 the periodicals and the paperbacks, that were  
15 offered for sale in Ontario through Metro Toronto  
16 News, were within your discretion, you could  
17 select, reject, add to or take from, isn't  
18 that correct?

19 A. . . . By and large, that  
20 is right.

21 Q. Of course, that makes sense  
22 because, as one witness said, every distributor  
23 must tailor his distribution to his particular  
24 market, isn't that correct?

25 A. That is correct.

26 Q. What is saleable in the  
27 Toronto district, for instance, may not be  
28 saleable in Windsor or Ottawa?

29 A. That is correct.

30 Q. So the responsibility for  
deciding what the public here wanted from your





1 company was basically your responsibility?

2 A. That is correct.

3 Q. Now, as to the manner of  
4 your leaving -- I don't want to go into it any  
5 more -- but I understand that this meeting  
6 at which you attended, the figures for the last  
7 year were produced, and I am told that Mr.  
8 Molasky, given a little to picturesque language,  
9 said "The figure stinks".

10 A. Something to that effect.

11 Q. And was very cross indeed  
12 and by some process of analysis with which I am  
13 unfamiliar, they decided that pilferage had  
14 accounted for a loss of something like half a  
15 million dollars. Does that figure bring something  
16 to your mind?

17 A. Half a million dollars?

18 Q. Yes.

19 A. Half a million dollars --  
20 how much is that? \$100,000 a week.

21 Q. Half a million dollars.

22 A. Are you putting a question  
23 to me?

24 Q. Yes, I am. I am asking if  
25 you recall that Mr. Molasky and whoever was with  
26 him, on examining the statements, thought that  
27 pilferage was something between ---

28 A. I don't recall that they  
29 used a figure at that time. Half a million  
30 dollars, to my mind, as a businessman, would be





1 very inflated.

2 Q. Very inflated?

3 A. They would have to bring a  
4 tractor-trailer to the door each week.

5 Q. By looking at a statement,  
6 how does one make some estimate of what pilferage  
7 may have cost the company in the year covered  
8 by the statement?

9 A. One projects from the sale,  
10 let us use a figure of 20 per cent. Our sales  
11 had been \$10.4 million, so, therefore, at  
12 20 per cent, you should have a million dollars  
13 in the till -- \$2 million. \$1 million gross,  
14 \$2 million gross, out of which you have, of course,  
15 to pay your costs. Let us say, then, that the  
16 20 per cent is a good measuring guide and 19  
17 per cent is not very good and 22 per cent is  
18 very good. Let us say they were off 2 per cent.  
19 That would be \$400,000.

20 THE CHAIRMAN: No.

21 THE WITNESS: No?

22 MR. SEDGWICK: Q. \$400,000.  
23 My arithmetic is notably faulty.

24 A. \$400,000.

25 MR. CAMP: 2 per cent of \$200,000  
26 or \$2 million is \$400,000?

27 MR. SEDGWICK: 2 per cent of  
28 \$10 million would be \$200,000.

29 Q. That is right. We are at  
30 least agreed on that, 2 per cent of \$10 million







1 would be \$200,000, wouldn't it?

2 A. \$200,000.

3 Q. Is it by a process such as  
4 that that management might estimate, and they  
5 would know a bit better, the pilferage, is that  
6 correct?

7 A. Yes. As I said before, the  
8 only indicator you have is your year end statement,  
9 once a year.

10 Q. Then, may I come now, sir,  
11 to these Exhibits, 31 ---

12 THE CHAIRMAN: Mr. Sedgwick ---

13 MR. CAMP: I worked it out to  
14 \$40,000.

15 MR. SEDGWICK: That is \$10 million.

16 MR. CAMP: That was the gross.

17 MR. SEDGWICK: I think that was  
18 the figure we settled on.

19 THE WITNESS: Added to that half  
20 a million you would have to have 4, 5 per cent.

21 MR. SEDGWICK: Q. You don't think  
22 it was that high?

23 A. I know it wasn't that high.  
24 I was told it wasn't that high.

25 Q. I believe you said you did  
26 learn that, after your departure they put in  
27 security provisions and I believe they questioned  
28 a great number of drivers, and I am told they got  
29 confessions from about 16 drivers of pilfering.  
30 Did you know about that?





1 A. I was told about that.

2 Q. Very well, you were told about  
3 that. May I come to Exhibits 31 and 32 and 33.  
4 In giving your evidence-in-chief, you said that  
5 on Thursday last it was suggested to you that  
6 you should survey the dealers in your Kitchener  
7 area as to their preference, is that right?

8 A. Yes.

9 Q. Who made that suggestion?

10 A. Mr. Jim Smallwood of Simon  
11 and Schuster.

12 Q. Very good thing, too.  
13 How many dealers have you?

14 A. About 230 full-line accounts.

15 Q. All told you have probably  
16 over 400, but not all full-line accounts?

17 A. When we had TV Guide we  
18 had 446.

19 Q. Some of them would be TV  
20 Guide only?

21 A. Yes.

22 Q. So you did survey some of  
23 your dealers, about 72, I think you said, and  
24 I see what you got from them is in the form of  
25 a petition, which you prepared, is that correct?

26 A. Yes.

27 Q. It says:

28 "Please let it be known  
29 that we, the undersigned, have  
30 done business with the KITCHENER





1 NEWS COMPANY for a good length  
2 of time, and that we resent  
3 being forced to take magazines  
4 from a supplier other than  
5 Kitchener News. We want local  
6 supply on all our periodicals  
7 from the Kitchener News Company."

8 Those were your words, of course?

9 A. Yes.

10 Q. Apart from TV Guide, may I  
11 take it that all these various signatories do  
12 get their periodicals from the Kitchener News  
13 Company, is that correct?

14 A. They get TV Guide from Triangle  
15 and some of the other titles.

16 Q. The Triangle line?

17 A. The McFadden line, as well  
18 as some Triangle.

19 Q. Did you go around, yourself,  
20 to have people sign this document?

21 A. No.

22 Q. Who did?

23 A. The driver-promotion men.

24 Q. Oh, I see. No inducement  
25 offered to sign these petitions?

26 A. No, sir.

27 Q. Not even a free TV Guide?

28 A. I can't get TV Guide. (Laughter)

29 Q. You didn't have any?

30 THE CHAIRMAN: He said he can't get







1 them.

2 MR. SEGWICK: I might give you  
3 a few!

4 Q. I am looking now at Exhibit  
5 No. 31, Mr. Cosgrove, and Exhibit 31 consists  
6 of three letters, all addressed to Mr. David  
7 Lichtenberg of TV Guide Limited, Box 500, Radnor,  
8 Pennsylvania, and dated as to the earliest, which  
9 is from Central Meat Market, May the 12th, 1971,  
10 and the second one from Algor Smokers' Supply  
11 Limited, May the 18th, and the third one from  
12 Dutch Boy Food Market, dated June the 4th.  
13 As to those letters you solicited those two, didn't  
14 you?

15 A. Oh, I asked all the dealers  
16 if they -- the close dealers I was in conversation  
17 with, and by letter I asked dealers to write and  
18 try to influence Mr. Lichtenberg to change his  
19 mind, yes.

20 Q. I have in my hand a letter  
21 on the heading of Kitchener News, dated the  
22 10th of May and it is addressed -- I will show it  
23 to you and read it if I may -- it is addressed:

24 "Dear Mr. Retailer:

25 "It is too bad we cannot visit  
26 with each of you in one day but, as  
27 you realize, this will take time.

28 "However, we have called  
29 on a number of our accounts and  
30 are most pleased with the support





1 we are receiving. Each of  
2 the retailers called upon  
3 volunteered to wire or write  
4 to the one publisher who had  
5 left us and to two who are  
6 still considering the question.

7 "No dealer we have spoken  
8 to wants to have two suppliers  
9 with the extra work and confusion  
10 such a situation would bring.  
11 All stated they were happy with  
12 our past service and wanted to be  
13 supplied by Kitchener News.

14 "You can help if you are  
15 so disposed. Wire or write the  
16 publishers listed below -- we will  
17 reimburse you for any costs."

18 And the publishers are Mr. Ed Reed of Fawcett  
19 Publications Inc., Fawcett Place, Greenwich,  
20 Connecticut; Mr. D. Lichtenberg of the TV Guide,  
21 Radnor, Pennsylvania, and Mr. F. Cerminaro of  
22 McFadden-Bartell, 205 East 42nd Street, New York.

23 Then, capitalized:

24 "YOUR ACTIVE SUPPORT IS  
25 URGENTLY SOLICITED -

26 "Sincerely,

27 "Harold Hill

28 "Terry Cosgrove."

29 Do you remember sending that letter?

30 A. Yes.





1 Q. Was it as a result of  
2 your letter that the three letters which are  
3 now Exhibit 31 were sent to Mr. Lichtenberg?

4 A. I believe so.

5 Q. Were any other letters sent,  
6 do you know?

7 A. I believe so.

8 Q. You don't have copies of them?

9 A. I have had copies from a couple  
10 of other dealers; and I could find them. Some  
11 of them wired and we paid for the wire.

12 THE CHAIRMAN: That will be  
13 Exhibit No. 34, the letter of May the 10th, 1971.

14  
15 ---EXHIBIT NO. 34: Letter dated May 10, 1971 from  
16 Kitchener News Company Limited  
17 to Retailers.

18 MR. SEDGWICK: Q. I am jumping  
19 around a little, Mr. Cosgrove, because in-chief  
20 Mr. Holland dealt with a number of subjects, but  
21 in giving your evidence you said you had been  
22 in this business for over 20 years and that ten  
23 years ago it was usual to seek prior approval  
24 from the North American distributors in the  
25 event of the sale of a wholesaler, but that  
26 during the past ten years that had not been  
27 so. You said you knew of a number of cases  
28 in the past ten years where a distributorship had  
29 been sold without prior reference to the North  
30 American distributors. Could you give me the names







1 of any such distributorships that were sold  
2 without any prior application to the  
3 Canadian distributor?  
4  
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1 A. At Sudbury, Ontario.

2 Q. What is the name of the man  
3 there, do you know?

4 A. The Manager is Bill Paden.

5 Q. You say they didn't seek any  
6 prior approval?

7 A. Mr. Bill Paden told me  
8 they did not seek any prior approval.

9 Q. Bill who?

10 A. Paden, P-a-d-e-n.

11 Q. He is the man who took over  
12 the distributorship, is he?

13 A. He is one of the purchasers.

14 Q. And can you give me any  
15 other?

16 A. I asked him to get me that  
17 information. I don't have anything definite at  
18 the moment but while I was in New York at that  
19 time there were changes in ownership made without  
20 prior consultation. I don't know if I can pin-  
21 point them now.

22 Q. When you were in New York --  
23 in what capacity?

24 A. I was sales manager with  
25 one of the national distributors.

26 Q. Which one?

27 A. Select Magazines.

28 Q. And you say that during  
29 that time -- how long ago was that?

30 A. Seven or eight years ago.





1 Q. In New York and there were  
2 changes in Canada distributors' franchises or  
3 agreements as to which no prior approval was asked  
4 for, is that right?

5 A. Right.

6 Q. Which ones?

7 A. My memory doesn't serve me.  
8 I know that that is true. I know that the policy  
9 today with Select Magazines is that they accept  
10 changes in ownership without reservation.

11 Q. Select Magazines do?

12 A. Yes, unless the buyers  
13 don't pay their accounts or something of that nature.

14 Q. And, of course, in the case  
15 of Kitchener News, you knew Select Magazines were  
16 content to go along?

17 A. They were content, yes.

18 Q. Triangle was not?

19 A. That is right.

20 Q. You have a 20 per cent  
21 interest in Kitchener News, do you, Mr. Cosgrove?

22 A. Yes, sir.

23 Q. Representing something like  
24 \$106,000?

25 A. More than that.

26 Q. How much?

27 A. It is \$130,000.

28 Q. This question was asked of  
29 Mr. Melasky so I suppose I should ask it of you.  
30 How did you do your financing?







1 A. Through the bank.

2 Q. You borrowed the whole  
3 amount, is that correct?

4 A. I borrowed the whole amount.

5 Q. So that you, beneficially,  
6 are the owner of the whole of the 20 per cent?

7 A. Myself and my wife, yes.

8 Q. Yourself and your wife only,  
9 nobody else?

10 A. Nobody else.

11 Q. I think I am almost  
12 finished, I am just looking over my notes. Oh,  
13 as to -- this was raised earlier -- when Pierce  
14 News took over Metro Toronto did they immediately  
15 get better terms from the distributors and the  
16 publishers?

17 A. Not immediately.

18 Q. Did they later get better  
19 terms?

20 A. From a good number, yes.

21 Q. But do you know whether  
22 or not the terms that they get in Toronto correspond  
23 with the terms they get in St. Louis, for instance?

24 A. I don't know.

25 Q. You do not know?

26 A. No.

27 Q. It has been suggested that  
28 whatever they get in St. Louis they would get here  
29 but you don't know anything about that?

30 A. I don't know what the terms





1 are at all.

2 Q. And when you talked about  
3 46 per cent on paperbacks, that is the usual  
4 discount, isn't that correct, for a large  
5 distributor?

6 A. They made it 44 per cent in  
7 Kitchener.

8 Q. Well, it was said by  
9 Mr. O'Brien that he got 44 per cent in Brantford  
10 and 46 in Hamilton. I am relying on my memory but  
11 I think that is so?

12 A. Yes.

13 Q. So, is it fair to say that  
14 46 per cent is the percentage that would apply to a  
15 major distributor, such as Metro News?

16 A. I would think so.

17 Q. And you said that some get  
18 50 per cent, some lines carry 50. There are very  
19 few of them?

20 A. Not too many.

21 Q. And don't they carry 50  
22 because they are much harder to sell, they require  
23 more selling effort?

24 A. Well, I don't know. I  
25 think it is publisher inducement.

26 Q. Oh, yes, I see. The  
27 publisher says, "I want you to push my line, I  
28 will give you 50 per cent"?

29 A. Yes.

30 Q. And those things are all





1 matters of arrangement between publisher,  
2 distributor and wholesaler, is that correct?

3 A. Yes.

4 Q. And would it be fair to say  
5 that almost every month you would be negotiating  
6 with publishers to try and get a little better deal  
7 for your company?

8 A. I am negotiating now.

9 Q. Of course, and that is  
10 the custom of the trade, isn't it?

11 A. Yes.

12 Q. Every wholesalers tries  
13 to do a little better out of both the distributor  
14 and the publisher?

15 A. Yes, sir.

16 Q. Nothing wrong with that, is  
17 there?

18 A. Not in my mind.

19 DR. JEANNERET: The poor publisher  
20 is at the end of that long train, Mr. Sedgwick?

21 MR. SEDGWICK: Yes, he is, but  
22 I am not representing the publisher here.

23 I think that is all, thank you.

24 Oh, one last question.

25 Q. I am looking at Exhibit 33  
26 which says:

27 " TV Programs Kitchener-Waterloo-Guelph  
28 Entertainment Guide  
29 Coming Soon!  
30





1           "                   A truly local entertainment Guide  
2                               featuring TV, theatre, radio, local  
3                               events, auction sales and much more!"

4       I believe you said that the promised TV Entertainment  
5       Guide has not yet been published, is that right?

6                   A.           It has not yet been published.

7                   Q.           But as to the competitive  
8       angle, Mr. Cosgrove, would you agree with me that  
9       if a person paid 15 cents for this Guide he would  
10      not be likely to buy the other TV Guide for another  
11      15 cents?

12                  A.           I would not likely buy it  
13      but a lot of other people would.

14                  Q.           There would at least be  
15      that element of competition between the two,  
16      wouldn't there?

17                  A.           Yes, I would think so,  
18      but I think if we go back again to the allotment  
19      of 5,000 against 40,000.

20                  Q.           But 5,000 is the starting  
21      order and I suppose like Topsy one trusts that  
22      it will grow.

23                  A.           I should hope so.

24                  MR. CAMP:   What is the operative  
25      expression about the new procedures that Pierce  
26      was to bring to Metro -- sound business practice,  
27      was that it?

28                  THE WITNESS: The methods they  
29      brought from St. Louis?

30                  MR. CAMP:   Yes.





1 THE WITNESS: If a method is tried  
2 in the United States, I think we are doing this  
3 constantly in our industry, that is the reason we  
4 have conventions and seminars and do studies  
5 to determine what the best method and what the best  
6 approach is.

7 MR. CAMP: They would bring this  
8 expertise from the United States to the advantage  
9 of the struggling Canadian industry. How often  
10 did you report sales?

11 THE WITNESS: Monthly.

12 MR. CAMP: I take it then that if  
13 it is true, as counsel suggested, that the Molaskys  
14 felt that the company had been pilfered of half  
15 a million dollars that this would have been an  
16 outgo of \$400,000 a month, on an average. If you  
17 were reporting once a month to these people on  
18 sound business practices in St. Louis, truly it  
19 would seem that you would have been made aware of  
20 it, or certainly they would have been aware of it?

21 THE WITNESS: No, because you used  
22 an estimated figure on arriving at your gross.  
23 You only had that figure once a year, the actual  
24 figure, once a year, but your sales, if the  
25 sales were improving, the sales were quite good  
26 to my mind.

27 MR. CAMP: You said that you had heard  
28 that the drivers employed by Metro News had signed  
29 confessions in regard to pilferage and you said  
30 you had heard that?





1 THE WITNESS: I had heard that,  
2 I have not heard very much about it but I have  
3 heard that, yes.

4 MR. CAMP: Have you heard whether  
5 or not there had been any prosecutions and your  
6 answer is no to that?

7 THE WITNESS: No, I think there  
8 was one.

9 MR. SEDGWICK: I don't think he  
10 answered that.

11 THE WITNESS: I don't think  
12 that question was raised.

13 MR. CAMP: Do you know if those  
14 drivers are still employed?

15 THE WITNESS: I don't know.

16 MR. CAMP: And the employer  
17 has signed confessions. Are the drivers who worked  
18 for Metro when you were there, unionized?

19 THE WITNESS: Yes.

20 MR. CAMP: And they bargained with  
21 their employers?

22 THE WITNESS: Yes,

23 MR. CAMP: Thank you.

24 DR. JEANNERET: Just one question,  
25 Mr. Cosgrove, which Mr. Sedgwick raised in his  
26 questioning, in pointing out that the TV News might  
27 have an interaction with the TV Guide. I suppose  
28 that is true. From your own experience, I accept that  
29 it probably is true, and from the varieties of the  
30 weekly TV Guide by various names with the weekly







1 newspapers, certainly did not destroy TV Guide as  
2 such in any way, is that not so? How much inter-  
3 action has there been from the competition of the  
4 weekly summary in the various newspapers?  
5 This is just as a matter of interest.

6 THE WITNESS: Well, from my  
7 experience, the introduction of the Telegram  
8 supplement did not hurt the TV Guide sales because  
9 they had gone about it by setting aside copies  
10 which the purchaser of the newsstand copy would  
11 pick up free, providing he bought the Telegram.

12 DR. JEANNERET: Or the Star or  
13 the Globe?

14 THE WITNESS: That did not hurt  
15 the sale of TV Guide. When the Star came into  
16 the field they came out with a supplement and they  
17 enclosed it in almost every home copy and newsstand  
18 copy, so everyone received a TV Week, I believe  
19 it is, and that did hurt the sale of TV Guide,  
20 for some length of time.

21 DR. JEANNERET: But these things  
22 have a tendency to revive.

23 THE WITNESS: I do not know whether  
24 it would have revived more if that had not  
25 happened. If it had TV sales today would be  
26 higher if this were not true but the TV Guide sale  
27 I presume is back to, or better than it was when  
28 it was first introduced.

29 DR. JEANNERET: I don't think we  
30 are concerned with the economics of the TV Guide





1 publishing. I was just following it up because  
2 this is an important case in point. Thank you.

3 MR. SEDGWICK: Mr. Chairman,  
4 may I say something that has to do with what  
5 Mr. Camp asked a moment ago? I didn't know this  
6 before.

7 The union that bargains for the  
8 employees is the Warehousemen and Miscellaneous  
9 Drivers Union, Local 419 and on March 31st, 1971,  
10 Mr. A. Laforte, Secretary-Treasurer of that union  
11 issued a bulletin to all the employees of Metro  
12 Toronto News covered by the contract and it had  
13 to do with this pilfering. I don't need to read  
14 it all but he said:

15 " I do not believe that all of  
16 you are guilty of stealing but by  
17 the same token I do not believe that  
18 the Company is making up all this and  
19 that none of you are stealing. So,  
20 to those of you who are guilty of  
21 this practice, I would advise you  
22 to stop it immediately and save  
23 yourself some grief and serious  
24 trouble in the future.

25 To those of you who are not  
26 guilty, just continue to do a  
27 good job and you have nothing to  
28 worry about. I want to make it clear  
29 that the union ~~does~~ not condone  
30 stealing in any form and in the





" event of your getting caught,  
provided the Company has adequate  
evidence, there is little that the  
union can do on your behalf."

And then it concludes:

" Your management is making  
many changes in its operation in  
an attempt to make it more efficient  
and a better place for you to  
work. However, they cannot do the  
job alone, they need your co-  
operation. I appeal to you to co-  
operate with them by giving them a  
good and honest day's work. I ask  
nothing more and I am convinced that  
if we did that it would pay high  
dividends in the future."

THE CHAIRMAN: What is the date  
of that?

MR. SEDGWICK: March 31st, 1971.







1 MR. CAMP: Who wrote that?

2 MR. SEDGWICK: Mr. A. Laforte,  
3 the secretary-treasurer of the union. They were  
4 obviously concerned about the problem which the  
5 union and management were trying to solve jointly.

6 THE CHAIRMAN: Just one query I have.  
7 That would be Exhibit No. 35.

8  
9 ---EXHIBIT NO. 35: Union bulletin of March 31, 1971

10  
11 MR. HOLLAND: When Mr. Sedgwick  
12 is putting in Exhibits, perhaps he would like  
13 to produce the 16 confessions and have them  
14 marked as well?

15 MR. SEDGWICK: No, I shan't.  
16 It would not be fair to employees. The question  
17 of whether an employer decides to prosecute or  
18 decides not to prosecute is something that I think  
19 is for him to decide and I say now, if we have  
20 the confessions, I shall not produce them.

21 MR. HOLLAND: These could be  
22 kept confidential to the Commission.

23 MR. SEDGWICK: No, I will not  
24 produce them.

25 MR. HOLLAND: Perhaps you will  
26 consider the matter?

27 THE CHAIRMAN: This is a matter  
28 that we have been aware of and we will -- we  
29 don't know what they are -- we will take the  
30 question under advisement as to whether or not





1  
2 we should embark on inquiries into this particular  
3 field. We realize the confessions do exist  
4 and are in the possession of the employer.  
5 We will make a decision in this regard and we  
6 understand Mr. Sedgwick's position that he will,  
7 under no circumstances, produce them.

8 MR. SEDGWICK: I will not.

9 THE CHAIRMAN: We will take all  
10 these considerations under advisement and we will  
11 take a position with respect to it.

12 Going back, Mr. Cosgrove, to  
13 one final point, I understand you did have a  
14 discussion with regard to paperback books, mass  
15 market paperback books as to certain acquisitions  
16 you bought, is that correct?

17 THE WITNESS: That is right.

18 THE CHAIRMAN: Did you make the  
19 selection of all the titles that come to Metro  
20 Toronto News for distribution to your retailers,  
21 or did some come from selections made and  
22 negotiations made by Mr. Bernstein in the United  
23 States, Mr. Bernstein and others you have told  
24 us about?

25 THE WITNESS: The actual  
26 determining was made when you had a special  
27 promotion which they wanted to tie in with certain  
28 cities, a given title, let us say, which would  
29 go to a chain, or, let us say, they would choose  
30 a title and they would promote that one title





1 to the four cities.

2 MR. CAMP: Who was one?

3 THE WITNESS: Mickey Spillane  
4 was one. Dictionaries was another, and with that  
5 exception ---

6 THE CHAIRMAN: So you did the  
7 ordering from the distributors yourself of the  
8 titles you wanted?

9 THE WITNESS: I was the book  
10 manager.

11 THE CHAIRMAN: It would be you  
12 who did the ordering and it was not anyone from  
13 St. Louis during your time?

14 THE WITNESS: No.

15 THE CHAIRMAN: All right.

16 DR. JEANNERET: I have a question  
17 that probably could be answered by someone other  
18 than you, but how many drivers were there when you  
19 left?

20 THE WITNESS: I think there were  
21 about 40-odd.

22 DR. JEANNERET: That would be 16  
23 out of 40, then.

24 THE CHAIRMAN: I take it that the  
25 bank has, very likely, all the collateral you obtained  
26 from the transaction, including the  
27 shares?

28 THE WITNESS: The bank has the  
29 shares and if you want me to verify it, I can  
30 verify it. Mr. O'Brien and Mr. Bramall had







1           guaranteed my loans and we had bonds as collateral.

2                   THE CHAIRMAN:   You had pretty  
3           much everything at stake?

4                   THE WITNESS:   Everything.

5                   MR. CAMP:     Perhaps you could  
6           answer this, Mr. Cosgrove:   Does the company  
7           cover itself through insurance against pilferage?

8                   THE WITNESS:   All the drivers  
9           are bonded.

10                  THE CHAIRMAN:   All the drivers  
11           are bonded. Therefore, I would assume that --  
12           could the company be reimbursed whether or not  
13           the guilty party was identified and prosecuted,  
14           do you know?

15                  THE WITNESS:   I don't know the  
16           conditions under which they would be reimbursed.

17                  THE CHAIRMAN:   Any further  
18           questions, Mr. Sedgwick?

19                  MR. SEDGWICK:   No further  
20           questions.

21                  MR. HOLLAND:   No further questions.

22                  THE CHAIRMAN:   Thank you very  
23           much, Mr. Cosgrove, you have been most helpful.  
24           We will adjourn until 10:00 o'clock tomorrow  
25           morning at which time we will have Mr. Lichtenberg  
26           in the stand.

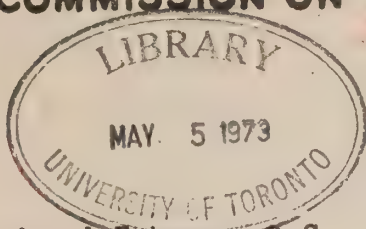
27  
28           ---Adjournment  
29  
30





ONTARIO

## ROYAL COMMISSION ON BOOK PUBLISHING



Mr. Richard Rohmer, Q.C.

Chairman

Dr. Marsh Jeanneret

Commissioner

Mr. Dalton Camp

Commissioner

-----  
Mr. Robert Fleming

Executive Secretary

-----  
APPEARANCES:

R. E. Holland, Q.C.

Commission Counsel

A. O'Donnell

Commission Counsel

Joseph Sedgwick, Q.C.)

and )

P. H. H. Ridout, Q.C.)

for Metropolitan Toronto  
News Company & Affiliates

R. Wyrzykowski

for Witness Halliley

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Hearings held at 252 Bloor Street West,  
Toronto, Ontario, July 20, 1971

-----  
This transcript has not been edited,  
corrected or revised by the Commissioners,  
but may subsequently be edited, corrected  
and revised.

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TORONTO 1



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EXHIBITS:Description

36 Booklet entitled "Canada's  
Largest List of Selected  
Paperbacks for Schools,  
Elementary to University".... 3372

37 Xerox sheet page from  
New York Times,  
September 13, 1940..... 3385

38 July 17, 1971 issue of  
TV Guide ..... 3448







Toronto, Ontario,  
July 20, 1971.

---The hearing commenced at 10.00 a.m.

THE CHAIRMAN: Mr. Holland, I  
think we will proceed, if we may.

MR. HOLLAND: Yes, Mr. Chairman.  
I understand Mr. Sedgwick has something he wishes  
to say.

MR. SEDGWICK: Mr. Chairman, I  
have in my hand a booklet that only came to my  
attention today and some mention has been made  
of supplies to the schools and I thought it  
might be helpful to the Commission. It is  
entitled, "Canada's Largest List of Selected  
Paperbacks for Schools, Elementary to University"  
and is put out by Metro Toronto News. I  
certainly don't want to read it but I see there  
is an index and on pages 20 and 21 there is a  
long list of titles under the heading, "Canadian  
Literature and Poetry" and on pages 21 and 22  
another long list under the heading, "Canadian  
History and Political Science". This really has  
nothing to do with the mass market because schools  
order precisely what they want and they are  
even invited in the preface to this document to  
attend a display room and warehouse where there  
are over 7500 titles open from 8 a.m. to 5 p.m.  
for the convenience of teachers and librarians  
who wish to make their selection personally.





1 It is something separate from the mass market  
2 but it may be of interest.

3 THE CHAIRMAN: Exhibit 36.

4 ---EXHIBIT NO. 36: Booklet entitled "Canada's  
5 Largest List of Selected  
6 Paperbacks for Schools,  
7 Elementary to University".

8 THE CHAIRMAN: I might ask you,  
9 Mr. Sedgwick when it is we will have some of  
10 the documents that we have asked for?

11 MR. SEDGWICK: I think Mr. Holland  
12 has them all.

13 MR. HOLLAND: They were given to  
14 me this morning, Mr. Chairman, just a few minutes  
15 ago and we are in the process of checking them  
16 now.

17 THE CHAIRMAN: Thank you very  
18 much, Mr. Sedgwick.

19 MR. HOLLAND: Mr. Lichtenberg.

20 DAVID LICHTENBERG, Sworn.

21 EXAMINED BY MR. HOLLAND:

22  
23 Q. What is your full name,  
24 Mr. Lichtenberg?

25 A. David Lichtenberg.

26 Q. Where do you reside?

27 A. Swarthmore.

28 Pennsylvania.

29 Q. How old are you?

30 A. I am 61.





1 Q. I believe you hold some  
2 position with Triangle Publications?

3 A. I do, sir.

4 Q. What position do you hold?

5 A. I am Circulation Director of  
6 TV Guide and Circulation Director of TV Guide  
7 Circulation Company, which is a  
8 division of Triangle Publications.

9 Q. How long have you held  
10 your present position?

11 A. Since 1962, May.

12 Q. How long have you been with  
13 Triangle Publications?

14 A. Since September, 1953.

15 Q. And were you in the business  
16 of publishing and distributing magazines and  
17 paperbacks prior to that time?

18 A. I was, sir.

19 Q. How long have you been in  
20 that general business?

21 A. It would date back on and  
22 off to prior to World War II when I was also  
23 a retailer of magazines, a Boy's Sale Operation  
24 of magazines.

25 Q. This would date back to  
26 1938 or 1939?

27 A. 1939.

28 Q. And what company were you  
29 with before you went to Triangle Publications?

30 A. I operated my own independent







1 newsstand which was owned by the family. I worked  
2 briefly for Curtis Circulation Company and Boy's Sale Ope  
3 ation until 1940 and in 1943 I joined what was then  
4 McFadden Publications.

5 Q. Where was this newsstand  
6 that you operated?

7 A. In Bronxville, New York.

8 Q. And when was it then that  
9 you were in New York operating this newsstand, was  
10 that at the beginning?

11 A. That was at the beginning.

12 Q. And that would be 1939 until--?

13 A. Except for some time in the  
14 service, picking it up in 1943 at which time I  
15 worked weekends there and worked for my family.  
16 I was moonlighting, in other words.

17 Q. You would be in New York  
18 then in 1940?

19 A. Correct.

20 Q. Throughout the whole of 1940?

21 A. Throughout the whole of 1940.

22 Q. And what position does  
23 Richard Northorp hold with Triangle Publications?

24 A. In our table of organization  
25 Mr. Richard Northorp is Assistant Circulation division  
26 whose primary and complete efforts are devoted to  
27 the Canadian area.

28 Q. He is a Canadian citizen?

29 A. Yes, he is a Canadian citizen.

30 Q. I understand that Triangle





1 Publications is a private company?

2 A. It is, sir.

3 Q. It is an American company?

4 A. It is, sir.

5 Q. I understand that it is  
6 controlled by Mr. Annenburg.

7 A. I am not privy to the actual  
8 control of the corporation. It is a private one  
9 and I believe that the whole structure is such  
10 that there is Mr. Annenburg and his family who  
11 have complete financial control of the organization.

12 Q. That is Walter H. Annenburg?

13 A. Right. Court of St. James.

14 Q. What was the name of his  
15 father?

16 A. As far as I know it was  
17 M.L. Annenburg.

18 Q. Did you know that gentleman?

19 A. I did not.

20 Q. Is he still living?

21 A. I believe he died in 1941  
22 or 1942.

23 Q. Do you know Mr. Mark  
24 Molasky?

25 A. Yes, I do.

26 Q. Do you know his father  
27 Allan Molasky?

28 A. Yes, I do.

29 Q. And his grandfather was, I  
30 think, William Molasky?





1 A. Yes, he was.

2 Q. Did you ever meet

3 Mr. William Molasky?

4 A. Certainly.

5 Q. And is Mr. William Molasky  
6 still alive?

7 A. No, he is not.

8 Q. Where did you meet

9 Mr. William Molasky?

10 A. At various wholesale  
11 conventions over a period of years which were held  
12 periodically.

13 Q. Did you ever meet Mr. M.L.  
14 Annenburg?

15 A. No, sir.

16 Q. Historically what is the  
17 connection, if any, between Triangle Publications  
18 and the Annenburg family on the one hand and  
19 Pierce News Company Incorporated of St. Louis  
20 and the Molasky family on the other.

21 A. The only connections that  
22 I know of historically or chronologically or any  
23 other way is that Pierce Building News was a  
24 wholesale distributor in St. Louis and the  
25 other agencies they operated in Kansas City and  
26 St. Louis. Beyond that I have no knowledge of  
27 any other connection. They were merely to us  
28 another local distributor, named here a geographical  
29 distributor.

30 Q. Did you know that Mr. M.L.







1 Annenburg and Mr. William Molasky were convicted  
2 in September of 1940 on charges of conspiring to  
3 evade in excess of \$77,000 in income tax?

4 A. I did not know Mr. Molasky  
5 was but it was a matter of record that Mr. Annenburg  
6 was.

7 Q. You didn't know that they  
8 were jointly charged and jointly convicted?

9 A. No.

10 Q. Never heard of that?

11 A. No.

12 MR. SEDGWICK: You will prove that  
13 I presume in the usual way. You would know  
14 how to prove the conviction. There is a way of  
15 proving a conviction.

16 MR. HOLLAND: Yes.

17 Q. You say you were in  
18 New York in 1940 and you were in the newsstand  
19 business at that time?

20 A. Right.

21 Q. And you knew Mr. Molasky  
22 at that time?

23 A. No, I did not know Mr. Molasky.  
24 I didn't know who the wholesalers were at that  
25 time. I was in the retail business doing business  
26 with four, five or six different distributors who  
27 supplied magazines to my newsstand.

28 Q. Did you ever hear that  
29 Mr. Annenburg and Mr. Molasky were charged in  
30 connection with a race betting case in 1940, jointly





1 charged?

2 A. I would have no way of  
3 knowing that or hearing of that.

4 Q. Mr. Lichtenberg, I have  
5 here what purports to be a Xerox copy of a  
6 sheet of the New York Times for September 13th,  
7 1940. From your news experience do you recognize  
8 that as being a Xerox copy of that newspaper, a  
9 sheet?

10 A. Well, I recognize it as  
11 being a copy of something but I do not know if  
12 it is the New York Times of that period or a paste-  
13 up or what it is.

14 Q. Don't you see "New York  
15 Times" on top of the sheet?

16 A. Sure I can see "New York  
17 Times" on top of the sheet.

18 Q. And the date?

19 A. But I can't verify it  
20 because I did not see the original copy. I would  
21 like to see the original before I could say that.

22 Q. You would like to see the  
23 original?

24 A. Yes, I would, and I would  
25 like to have somebody from the New York Times  
26 indicate that it was a copy. I am not in a  
27 position to recognize a newspaper, a copy of which --

28 Q. You think it might be a paste-  
29 up or something?

30 A. I don't know what it is but I





1 certainly can't attest to the fact as to what it  
2 is.

3 MR. HOLLAND: Mr. Chairman, I would  
4 like this marked as an Exhibit.

5 MR. SEDGWICK: It can only be marked  
6 for identification.

7 THE CHAIRMAN: This appears to be  
8 a Xerox copy of a page which purports to be from the  
9 New York Times for Friday, September 13th, 1940.

10 MR. HOLLAND: And you will note,  
11 Mr. Chairman, I have marked a certain article there  
12 which I think I should read to you.

13 MR. SEDGWICK: Surely not,  
14 Mr. Chairman, unless it is proved. Surely this is  
15 merely smear evidence. I am aware that the Bible  
16 speaks of the sins of the fathers being visited  
17 on the children. I don't think it said grandchildren  
18 but what conceivably can the fact that the father  
19 of the present Ambassador to the Court of St. James  
20 was convicted of something 31 years ago have to do with  
21 this Inquiry? What conceivable connection can there  
22 be? It is an unwarranted smear on the Right  
23 Honourable Mr. Annenburg and an unwarranted smear  
24 on my client's grandfather. There is no  
25 connection between this tax evasion prosecution.  
26 If there is any relevance, please advise me.

27 MR. HOLLAND: Mr. Chairman, if I may  
28 answer, it has appeared from the evidence to date  
29 that in some way Triangle Publications or for some  
30 reason Triangle Publications took away the local







1 franchise of the Kitchener company and transferred  
2 it to Metro Toronto News Company. I am attempting  
3 to show that historically and maybe at the present  
4 time (we don't know) there is some connection or  
5 was some connection between the Molasky family  
6 in St. Louis and the Annenburg family that  
7 controls Triangle Publications also in the United  
8 States.

9 I do not suggest that the present  
10 Mr. Annenburg or anyone else has done anything  
11 wrong at all but I am trying to show this connection  
12 existed between the grandfathers back in 1940  
13 and may still exist for all we know. I therefore  
14 think it is relevant on that point.

15 THE CHAIRMAN: What were you saying  
16 then?

17 MR. HOLLAND: I suggest, therefore,  
18 that this evidence is relevant on that point alone,  
19 that there was historically a connection between  
20 these two families.

21 THE CHAIRMAN: A business  
22 connection, are you saying?

23 MR. HOLLAND: A business connection.  
24 Now, if Mr. Sedgwick wishes me to prove these  
25 convictions in some formal way, if it is denied,  
26 then I suppose we can bring somebody here from New  
27 York to prove it.

28 MR. SEDGWICK: No, I want to say  
29 something because I know nothing about their  
30 convictions and I am not concerned with them and





1        this Commission ought not to be concerned with them  
2        but as to any present connection between the  
3        Molaskys and Annenburgs that question was put  
4        and has been denied.

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1                   If Mr. Holland proposes to prove  
2                   that there is some present connection, that may  
3                   be relevant, but to show that 31 years ago there  
4                   was some sort of a conspiracy between the  
5                   grandfather of my client and the father of the  
6                   honourable Mr. Annenburg seems to be casting  
7                   a very wide net indeed.     As to proving a  
8                   conviction, there is a well-known way of proving  
9                   it.

10                   MR. HOLLAND:     I will ask Mr.  
11                   Sedgwick whether or not he wants us to formally  
12                   prove the conviction, because I don't intend to  
13                   pursue that except to show---

14                   THE CHAIRMAN:     We are not  
15                   interested in any convictions in anybody's past.

16                   MR. SEDGWICK:     There is no  
17                   reason to prove it.

18                   THE CHAIRMAN:     If there is some  
19                   business connection historically, which may  
20                   relate to today, then I think we are interested  
21                   in the convictions he may have had.

22                   MR. SEDGWICK:     Then it is not  
23                   necessary to prove the convictions.

24                   THE CHAIRMAN:     We would like to  
25                   adjourn just for a few minutes to discuss this  
26                   point.

27  
28                   ---Recess

29  
30                   THE CHAIRMAN:     We have discussed







1 this situation. This Commission is in no way  
2 interested in any past convictions of the type  
3 mentioned. We are interested, of course, in any  
4 past business connection between the two families,  
5 in that it might relate to questioning or  
6 evidence, or otherwise, in a present connection, and,  
7 if there is a present connection, we will hear  
8 evidence on that point. We are not in any way,  
9 shape or form, interested in evidence that  
10 relates to convictions for charges of any kind,  
11 but if the material does point to past business  
12 connections, then we are interested in that.

13 MR. SEDGWICK: Present business  
14 connections.

15 MR. CAMP: I would like to  
16 reflect your concern, but nevertheless, you have  
17 said -- it has been stated that there was a  
18 connection. Other things have turned out to  
19 be not true that were stated under oath by Mr. Molasky.

20 MR. SEDGWICK: I don't recall.  
21 He said he had only been here to sign the cheques.  
22 It turned out ---

23 MR. CAMP: He said he was here  
24 because he had to sign the cheques.

25 MR. SEDGWICK: That was wrong.  
26 He had to sign the banking resolution.

27 MR. CAMP: How do we know that  
28 what he said was wrong?

29 MR. SEDGWICK: What he said  
30 about any connection with the Annenburg family





1 was that he knew of none and what more can he  
2 say?

3 MR. CAMP: I am not a lawyer  
4 and I respect the fact that you are, but I have  
5 the feeling, because I have suspicions that what  
6 some people say is only what it is convenient  
7 for them to say. I want to know precisely what  
8 the facts are. Somebody says the \$500,000 was  
9 pilfered and then it turns out it involves 40  
10 percent of the employees of the company and it  
11 turns out they are bonded.

12 MR. SEDGWICK: Nobody said  
13 \$500,000 was pilfered under oath, nobody. I  
14 said ---

15 MR. CAMP: Have I got the figure,  
16 Mr. Sedgwick?

17 MR. SEDGWICK: It is an  
18 approximation. Nobody knows how much was  
19 pilfered, Mr. Camp, nobody knows how much was  
20 pilfered. If you will read what the secretary  
21 of the union said, he put the figure, I think,  
22 at \$350,000, but it is impossible to check  
23 with mathematical accuracy the pilferage.  
24 I filed yesterday what the secretary said.  
25 I put it to the witness, if he knew and he  
26 said no.

27 THE CHAIRMAN: I think Mr.  
28 Camp made a point and we are here to examine  
29 the facts and Mr. Camp has expressed his  
30 dissatisfaction with some of the facts which we





1 have been hearing. What I think he is saying  
2 is, we want to pursue the truth as far as we  
3 can determine it and we want to know what all  
4 the facts are and want to examine these things.  
5 We made our position clear with regard to  
6 these convictions and we would ask counsel --  
7 we do not need any questioning in that regard.  
8 There is no intent in any way, shape or form,  
9 on the part of this Commission to hurt anybody.

10 MR. SEDGWICK: I would hope not.

11 THE CHAIRMAN: If you would be  
12 so kind as to leave your questions in relation  
13 to the association coming under this Exhibit  
14 in that regard, this will be Exhibit 37.

15  
16 ---EXHIBIT NO. 37: Xerox sheet of page from  
17 New York Times, September  
18 13, 1940

19 MR. HOLLAND: Q. You say you  
20 did not know of any previous business relationship  
21 other than as a publisher and distributor on  
22 the one hand and a wholesaler on the other?

23 A. I only know what I have  
24 learned since I have been in the business, and  
25 that is the relationship of any national  
26 distributor or publisher to the wholesaler.  
27 Beyond that, I don't know any other connection  
28 in any instance.

29 Q. Other than a business connection,  
30 is there a friendly relationship to your knowledge,







1 between these two families?

2 A. I would not know. I doubt  
3 it.

4 MR. CAMP: I didn't hear the  
5 last answer.

6 THE WITNESS: I said I would not  
7 know, but I would doubt it.

8 MR. HOLLAND: Q. Why would you  
9 doubt it?

10 A. I think there is an age  
11 difference, to begin with, between the Honourable  
12 Mr. Annenburg and any of the current Molaskys.  
13 I doubt if there would be any social life  
14 between them.

15 THE CHAIRMAN: You don't know that?

16 THE WITNESS: I don't know.

17 THE CHAIRMAN: How old is the  
18 Honourable Mr. Annenburg?

19 THE WITNESS: 63.

20 MR. HOLLAND: Q. How old is  
21 Allan Molasky?

22 A. I would assume in his forties.

23 Q. His son, I think, is 25?

24 24? We can still assume that he is 24.

25 A. I can assume that.

26 Q. I see. Now, then, let us  
27 deal with the present business relationship  
28 between the two groups or the two families, if  
29 we can call it that, that is Triangle on the  
30 one side, Pierce on the other. Is Pierce News





1 Company Incorporated, along with the interest  
2 controlled in Ontario, the largest wholesaler  
3 of TV Guides for Triangle Publications?

4 A. By no means.

5 Q. About what number would it  
6 rank in size?

7 A. Well, I can quote some  
8 accurate figures as to the volume compared to  
9 our total circulation in single copy sales, which,  
10 as of December 31st, in a form that we submit  
11 to the audit bureau of circulation as attested  
12 to, and subsequently verified by them, indicated  
13 our single copy sales both in the United States  
14 and Canada and various possessions and some  
15 foreign, amounted to 10,072,582 single copies.

16 Now, we refer to the particular  
17 agencies in question, at the present time, were  
18 based on this June and this is a single issue  
19 for a single month, it would indicate that  
20 in this area of Toronto, the sale was 241,000  
21 copies. I believe that figure includes the sale  
22 on that particular issue of June 5th, including  
23 what is now, formerly, the Kitchener area.

24 If you then consider Kansas City, Missouri,  
25 the figure there was 53,000 copies sold, and  
26 if you look to St. Louis, it was 55,000 copies  
27 sold. In New Orleans you would have another  
28 50,000 or 60,000 copies sold, or so.

29 MR. CAMP: What was that for  
30 New Orleans?





1 THE WITNESS: 50,000 to 60,000.

2 MR. HOLLAND: Q. How about London,  
3 Sarnia and Belleville?

4 A. In London there were some  
5 36,000 copies sold. In Sarnia, some 11,000  
6 copies sold.

7 DR. JEANNERET: What was the  
8 significance of the 10 million-odd figure?

9 THE WITNESS: The 10 million  
10 figure is an attested figure for global ---  
11 the Audit Bureau of Circulation.

12 DR. JEANNERET: But that is  
13 a global figure?

14 THE WITNESS: Yes. This is for  
15 their reporting procedures.

16 MR. HOLLAND: Q. How about  
17 Belleville, Mr. Lichtenberg?

18 A. For some reason I don't have  
19 it in here. It would be about 30,000. These  
20 figures are not authenticated figures, they are  
21 estimates, and are subject later to verification,  
22 but they are within a half of one per cent of the  
23 true sales.

24 Q. That is a total of about  
25 476,000 copies?

26 A. Right.

27 Q. Is there any other geographical  
28 wholesaler that has as large a distribution  
29 of TV Guide? Or is this your largest group?

30 A. No, there is an organization







1 called A.R.A., which probably represents  
2 1,250,000 copies sold.

3 Q. We had heard some evidence,  
4 as I remember it yesterday, that Metro Toronto  
5 News Company was at one time the largest single  
6 wholesaler for TV Guide?

7 A. Yes, that is a fair assumption  
8 and this would have occurred back in -- 8, 9, 10  
9 years ago.

10 Q. No, that was more recent  
11 than that.

12 A. I don't believe they were  
13 because we have an organization and at the present  
14 time New York Imperial News, has a sale of  
15 290,000 and their sales have been as high as  
16 325,000.

17 Q. That is not as high as  
18 476,000.

19 A. These are individuals, but  
20 collectively, if you want to put joint ownership  
21 together, there are many, or a considerable  
22 number that equal or approximate the sale of  
23 various areas again.

24 Q. Going back to your figures,  
25 Mr. Lichtenberg, the Molasky interests have  
26 about 5 per cent, as I make it, of your total  
27 run?

28 A. I have not added them up  
29 myself. I will accept that.

30 Q. We have heard some evidence





1 that certainly, in Southern Ontario, TV Guide  
2 is the number one publication. Can you confirm that?

3 A. Well, I would like some  
4 clarification on what is number one. Is this  
5 newsstand sales or total circulation?

6 Q. Newsstand sales.

7 A. Well, I would assume that  
8 because I have not been able to break out other  
9 periodicals, single copy sales in any specific  
10 geographic area. We do know, for example, that  
11 throughout Canada a Canadian magazine such  
12 as MacLeans, has a total circulation of 750,000 --  
13 and I am speaking of all of Canada and the  
14 single copy sales is 6.3 per cent was 70,000 copies.  
15 We also recognize the fact that Chatelaine in  
16 their English edition, I assume there are very  
17 few French editions coming into Ontario, but  
18 the total circulation of the English edition  
19 is 978,000 copies of which 6.5 per cent was  
20 63,000 single copies.

21 Q. If you just stick to answering  
22 my questions ---

23 A. It is relevant, so I would  
24 assume that.

25 Q. I put it to you again that  
26 it is number one in sales in Southern Ontario.

27 MR. CAMP: Mr. Holland, I think  
28 we are talking of single copy sales and not  
29 talking circulation figures.

30 THE WITNESS: I would assume it is





1 number one.

2 MR. HOLLAND: Q. And did

3 Triangle Publications distribute in the Kitchener

4 area to Kitchener News Company Limited?

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1 A. We did.

2 Q. And is Triangle Publications  
3 still distributing to that area through the same  
4 company?

5 A. At the present time, no.

6 Q. Evidence has been given that  
7 the shares of this company were sold by Mr. Hill and  
8 his son to another group. When did you first hear of  
9 this sale of shares?

10 A. Either April 21st or  
11 April 22nd, I am not too sure of the day.

12 Q. Had Triangle Publications had  
13 any difficulty with Kitchener News Company Limited  
14 up until this date?

15 A. No more than the normal  
16 or average difficulties that we are faced with from  
17 time to time from other local or geographical  
18 wholesalers.

19 Q. You said you first heard of  
20 the sale of this stock on April 21st or April 22nd.  
21 How did you hear of this sale?

22 A. I didn't know if it was stock  
23 or what. Our Mr. Northorp called me on either  
24 one of those days and advised me that there was a  
25 rumour that the Kitchener News Agency had been sold  
26 to someone else. At that point I asked Mr. Northorp  
27 to get in touch with Mr. Hill and have Mr. Hill phone  
28 me and advise me of the facts.

29 Q. Did Mr. Northorp identify the  
30 purchasers to you?





1 A. No, he did not.

2 Q. And about what time of day  
3 do you remember, that Mr. Northorp telephoned?

4 A. I would assume that it was  
5 in the morning some time. I don't recall. I  
6 receive many phone calls during the day and I  
7 don't log them as to their income or subject matter.

8 Q. Following receipt of this  
9 telephone call did you telephone Mr. Molasky?

10 A. No, I did not.

11 Q. Where were you when you  
12 received this telephone call?

13 A. In my office in Radnor,  
14 Pennyslvania.

15 Q. Is there a direct line  
16 from that building where you were to St. Louis?

17 A. A direct line?

18 Q. Yes, or do you telephone  
19 long distance?

20 A. I didn't telephone him and  
21 we have no direct lines except to our 26 offices  
22 throughout the United States and Canada with a  
23 very complicated, dedicated A.T. & T. system.  
24 In the normal course of events we pick up the  
25 phone and dial directly, not even person to person  
26 because we find it saves money to do it that way.

27 Q. Does Triangle have an  
28 office in St. Louis?

29 A. No, we do not.

30 Q. When you heard of this sale





1        why did you not yourself telephone Mr. Hill? Why  
2        did you tell Mr. Northorp to have Hill telephone  
3        you?

4                    A.        No particular reason.

5                    Q.        Did Mr. Hill telephone you?

6                    A.        He did.

7                    Q.        Which Mr. Hill was that?

8                    A.        The elder Mr. Hill.

9                    Q.        Had you met him before?

10                   A.        I had met him at conventions.

11                   Q.        And was this telephone call  
12        from Mr. Hill also on April 21st or April 22nd, the  
13        same day as the phone call to you from Mr. Northorp?

14                   A.        It was.

15                   Q.        And how soon after the  
16        telephone call with Mr. Northorp did Mr. Hill  
17        telephone you?

18                   A.        I would say 15, 20 minutes  
19        or 25 minutes or half an hour. Again, I don't log  
20        the incoming calls.

21                   Q.        Would you please tell us what  
22        was said in this telephone conversation with  
23        Mr. Hill?

24                   A.        I attempted to find out  
25        whether Mr. Hill had sold his business and he said  
26        he had, at which time I reminded him that TV Guide  
27        and the rest of the Triangle distributed magazines  
28        were not for sale, that we reserved the prerogative  
29        as we have always done of making a decision as to  
30        whom we would sell our own products, Seventeen and







1 TV Guide and the client publications as a  
2 manufacturer or a North American distributor  
3 this was our prerogative.

4 DR. JEANNERET: This would include  
5 Popular Library and some hundreds of titles?

6 THE WITNESS: Correct -- and that it  
7 was our decision and solely our decision to make  
8 this decision for whatever reasons we wanted to  
9 because we have never had a contract or agreement  
10 between any geographical wholesaler --

11 MR. HOLLAND: Q. I am just asking  
12 you for your conversation. Is this all part of  
13 your conversation?

14 A. Yes, I reiterated these  
15 remarks and wanted to verify the situation.

16 Q. What else did you say?

17 A. He accused me somehow of  
18 butting into his business which I said I was not  
19 trying to do.

20 Q. Did you say to him words  
21 to the effect, "You bastards in Canada think you  
22 can do what you like"?

23 A. I certainly did not. I  
24 have the highest reverence for most Canadians. I  
25 have enjoyed Fred O'Brien's father's ability --

26 Q. I am not asking you to make a  
27 speech. I am asking you for an answer.

28 A. No, I did not. I might have  
29 called him that but I certainly would not attempt  
30 to categorize --





1 Q. You might have called him  
2 that?

3 A. Yes.

4 Q. Why?

5 A. Because he told me, "You guys  
6 in America ..." I won't use the language, "... aren't  
7 going to tell me how to run my business", and I  
8 am not attempting to tell anybody how to run their  
9 business.

10 Q. So you called him a bastard,  
11 did you?

12 A. I could have, yes, in the  
13 heat of the conversation.

14 Q. It was a heated conversation?

15 A. Definitely.

16 Q. Would you tell us about the  
17 rest of the conversation?

18 A. I think that pretty well  
19 concluded the conversation because I did not suggest  
20 that he do anything else about it, that it was his  
21 business and his decision.

22 Q. Did you tell him that the  
23 purchasers would not have the franchise?

24 A. We don't have a franchise.  
25 I told him that we would not sell our magazines to  
26 the purchasers.

27 Q. At this point did you know  
28 who the purchasers were?

29 A. I did not.

30 Q. How did you think you were





1       going to sell your magazines then if you told him  
2       you were not going to sell to the new purchasers?

3                   A.       By finding someone else to  
4       sell our magazines.

5                   Q.       Did you think you would have  
6       any difficulty?

7                   A.       Possibly.

8                   Q.       Did you have Metro News  
9       Company in mind?

10                  A.       Not at that moment because  
11       I had to examine a map to see who the closest  
12       organized distributor was who could efficiently and  
13       economically handle our publications.

14                  Q.       Did you give any  
15       consideration to Hamilton when you examined the  
16       map?

17                  A.       Well, not at that moment  
18       but we were all looking at maps and deciding which  
19       way we would go or go in there on a direct basis  
20       ourselves.

21                  Q.       But you decided at this  
22       time, as soon as you heard about the sale that  
23       come hell or high water the new purchasers would  
24       not distribute your magazines in that area,  
25       because you had not been asked to consent to the  
26       transfer?

27                  A.       It was not a consent to the  
28       transfer, there was no transfer involved. We like  
29       to know to whom we sell our product. We like to  
30       evaluate the people with whom we are going to do







1 business.

2 Q. Let me put it to you this  
3 way: if it had turned out that the purchasers had  
4 been Metro News Company, would the same decision have  
5 followed, that is --

6 A. If we had not had prior  
7 knowledge as to whom the purchasers were, we would  
8 take the simple action. We like to know ahead of  
9 time as to whom we are going to do business with  
10 and not suddenly be told, "You are going to do  
11 business with A, B and C".

12 Q. Did you realize at this  
13 time that it was simply a purchase of shares, of  
14 stock?

15 A. No, I have no knowledge  
16 nor am I interested in how the arrangements were  
17 made between seller and buyer because anyone  
18 can hang up a shingle and say they want to distribute  
19 our magazines and if on our investigation we enjoy  
20 or believe that this is the best for us, we will  
21 sell our magazines through them for resale.

22 Q. But in this case you cut  
23 them off, that is the new purchasers, without  
24 even knowing who they were or without making any  
25 investigation?

26 A. No, I heard then that  
27 Mr. O'Brien was involved, Mr. Bramall was involved  
28 and Mr. Smith was involved.

29 Q. Mr. Lichtenberg, as I understood  
30 your evidence, you told us that at the time of this





1 first telephone conversation you didn't know who the  
2 purchasers were?

3 A. Right.

4 Q. And you cut off the purchasers  
5 at that time without knowing who they were and without  
6 making any investigation?

7 A. Right.

8 Q. Following this conversation  
9 you indicated that you looked at a map?

10 A. Right.

11 Q. To try to find out who could  
12 service the area?

13 A. Right.

14 Q. And you decided, I assume,  
15 that Metro News Company could service the area?

16 A. Correct.

17 Q. Did you then telephone  
18 Mr. Molasky?

19 A. I did.

20 Q. The same day?

21 A. Yes.

22 Q. Which Molasky did you speak  
23 to?

24 A. I spoke to Mark Molasky.

25 Q. And was he in St. Louis at  
26 the time?

27 A. I believe so. I don't know,  
28 I didn't make the phone call. All I know is that  
29 my secretary told me that Mark Molasky was on the wire.

30 Q. You asked her to reach him?





1 A. Right.

2 Q. Did you yourself make this  
3 decision to go to Mark Molasky?

4 A. I did.

5 Q. Did you consult the directors  
6 or anyone else?

7 A. I don't have to consult  
8 anyone in my position.

9 Q. What did you say to Mr. Mark  
10 Molasky?

11 A. I asked if he was in a  
12 position to service what was known to us as the  
13 Kitchener area.

14 Q. And how soon was this  
15 telephone call made to Mark Molasky after your  
16 telephone conversation with Mr. Hill?

17 A. Within a reasonable time,  
18 I couldn't tell you the exact time.

19 Q. The same day?

20 A. Yes.

21 Q. Within a few minutes?

22 A. I can't tell you what time  
23 because I keep no log of times.

24 Q. Well, there is evidence  
25 before this Commission from Mr. Hill that within  
26 15 minutes, I think, of speaking to you on the  
27 telephone Mr. Mark Molasky telephoned him concerning  
28 this business?

29 A. I would not know as to that.

30 Q. And appeared to know about the







1 sale?

2 A. I would not know about that.

3 Q. That does not refresh your  
4 memory concerning the time lapse?

5 A. No.

6 Q. What did Mr. Molasky say  
7 when you asked him if he could service the area  
8 from Metro Toronto?

9 A. He gave a positive answer  
10 that he would do everything possible to handle  
11 our TV Guide which was going on sale the following  
12 Monday, Tuesday and Wednesday.

13 Q. Did any other publications  
14 go along with TV Guide -- Seventeen Magazine and so on?

15 A. Exactly.

16 Q. Does Triangle Publications  
17 put out the Daily Racing Form?

18 A. Triangle Publications are  
19 a completely separate division and there is no  
20 policy that covers it. Each division operates  
21 separately and establishes its own policies.

22 Q. To your knowledge is  
23 Daily Racing Form still being distributed in the  
24 Kitchener area by Kitchener News Company Limited?

25 A. I heard testimony of that  
26 but I have never investigated it at the division  
27 level.

28 Q. Apparently the managers of  
29 Daily Racing Form, the Circulation Manager, has a  
30 different policy than you do?





1                   A.           He does because it is a  
2                   separate division.

3                   Q.           Now, you have told us that  
4                   you require a purchaser, as I understand it, or  
5                   a vendor to approach you before sale?

6                   A.           Yes.

7                   Q.           Was this requirement made  
8                   known to the Ontario geographical wholesalers?

9                   A.           It has been a common policy  
10                  and practice, not only with us but throughout  
11                  the entire industry ever since I have been in  
12                  a position to be knowledgeable about it.

13                  Q.           When you talk about the  
14                  entire industry, you are talking about the United  
15                  States of America and Canada?

16                  A.           Yes.

17                  Q.           The same policy for both  
18                  countries?

19                  A.           The same policy as far as  
20                  we are concerned throughout the entire world.

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1 Q. How is this policy made known?

2 A. It has been made known

3 through remarks made at various times through  
4 the fact that purchasers and vendors, if that is  
5 the correct term to use, always have spoken to  
6 at least me, in both my positions with Triangle  
7 and with McFadden, suggesting that they were  
8 negotiating for whatever they were selling. I  
9 don't know what they were selling, and would  
10 it be agreeable to us to sell to the new  
11 purchaser, sell our magazines for resale to the  
12 new purchaser?

13 Q. Do you know of any case in  
14 Canada where the franchise, if we can call it  
15 that, for the distribution of publications and  
16 paperbacks, has been cancelled because no prior  
17 consent was sought from the publisher or  
18 distributor?

19 A. I know of no case because  
20 in every instance where there was a sale, there  
21 was always prior knowledge of it. I don't  
22 feel it is so much consent as a decision on the  
23 part of the North American distributor, in  
24 this case ourselves, who agree in a sense  
25 or state that we would sell to the new purchaser.

26 Q. Do you know of any case  
27 where this consent to the new purchaser had  
28 been withheld in Canada?

29 A. No.

30 Q. So this was the first?







1

A. It could have been.

2

3

Q. It could have been the first  
in two ways: One, no consent was sought and, two,  
when the consent was sought, was withheld?

4

5

A. There was no consent sought.

6

7

Q. I am saying that to you.

8

It was the first in two ways: One, no consent  
was sought, and two, when consent was sought,  
it was denied.

9

10

A. I don't think consent was

11

ever sought. We were advised that a sale

12

had been made, negotiations had been completed.

13

I don't know whether there was stock or not.

14

I don't think that is relevant. We learned

15

subsequently that these negotiations had been

16

going on for a number of months. I am quite

17

sure that the parties eventually who were revealed

18

as the purchasers were fully knowledgeable that

19

this was the common practice to call upon,

20

visit, phone and write and suggest that they

21

would buy someone's physical assets -- that is the

22

only thing we feel they need buy.

23

Q. Did Mr. Hill not, in effect,

24

seek your consent by this telephone call on

25

April 21st?

26

A. No, not in that fashion. I

27

think he just told us that this was a fact and

28

we could like it or leave it.

29

Q. Did not Mr. O'Brien, one of

30

the purchasers, seek your consent by telephone on





1 the next day, April 22nd?

2 A. He sought the right, or  
3 expressed the desire after our decision was made,  
4 to purchase our publications.

5 Q. Did he express that desire  
6 in writing to you, by letter dated May 3rd, 1971,  
7 Exhibit 23?

8 A. Subsequent and following this  
9 phone conversation in announcing that this was  
10 a fact.

11 Q. I am showing to you a  
12 Xerox copy of a letter, Exhibit 23, addressed  
13 to you, from Frederick O'Brien. Did you receive  
14 the original of that letter?

15 A. I did.

16 Q. Did you ever answer the letter?

17 A. I did not. I intended to  
18 see Mr. O'Brien later on, which I did.

19 Q. Now, you have told us that  
20 on the same day that you spoke to Mr. Hill,  
21 you telephoned Mr. Molasky and he said he was  
22 prepared to take over the distribution?

23 A. Right.

24 Q. Did you then speak to Mr.  
25 Northorp in Toronto?

26 A. Right.

27 Q. And you advised him?

28 A. Of our judgment.

29 Q. That was on the same date?

30 A. Right.





1 Q. When you telephoned to Mr.  
2 Molasky on April 21st, did Mr. Molasky seem  
3 surprised that there had been a sale of the  
4 Kitchener area?

5 A. I don't know whether he  
6 sounded surprised. I couldn't tell over the  
7 phone.

8 Q. The conversation was merely  
9 could they ---

10 A. The conversation was merely  
11 would he be in a position the following week  
12 to distribute TV Guide in the marketplace known  
13 as the Kitchener area.

14 Q. Why did you telephone to Mr.  
15 Molasky rather than telephoning to the management  
16 of Metro Toronto News Company in Toronto?

17 A. I was unfamiliar with Mr.  
18 Romanetz at that point.

19 Q. Did you assume that Metro  
20 Toronto News Company in Toronto was really being  
21 managed by Mr. Molasky of St.Louis?

22 A. I know he owned 50 per cent  
23 of it. I didn't know he managed it.

24 Q. As I understand your evidence,  
25 you, as circulation manager for Triangle Publications,  
26 refused to supply TV Guide to Kitchener News  
27 Company Limited for distribution in that area?

28 A. Did you say "did"?

29 Q. You had refused to do it?

30 A. We have refused to do it.







1 Q. I understood you to say you  
2 did?

3 A. We did refuse to do it. That  
4 is not to say we are continuing to refuse to  
5 do it.

6 Q. Are you supplying TV Guide  
7 to Kitchener News Company Limited?

8 A. Not at the moment, but it  
9 is our intention to.

10 Q. I see. When did you change  
11 your views?

12 A. Following a meeting -- this  
13 was not entirely -- if I may take this step by  
14 step.

15 Q. All right.

16 A. On June 10th I met -- or June  
17 11th -- I met with Mr. Cosgrove here in Toronto  
18 and we had a private conversation.

19 Q. That was at the Inn-on-the-Park?

20 A. Yes, in my suite at the Inn-  
21 on-the-Park.

22 Q. What was said?

23 A. At which time he explained  
24 the situation he was in, the problems he was  
25 faced with, and it was a very appealing meeting,  
26 a very warm meeting. I told him at that point  
27 that our door, again reserving the right to sell  
28 to whom we please, just as we reserve the right  
29 to manufacture if we want to, or not manufacture,  
30 that the door was open and that if circumstances,





1        which again I would make judgment on, that we  
2        felt it was in our interests that he handle  
3        TV Guide, then we would provide him with the copies  
4        to handle TV Guide.

5                    Q.    And how were you to make  
6        that decision as to whether or not    it was to  
7        your interests?

8                    A.    We make our decision by  
9        accumulating and being notified that certain  
10       dealers and certain outlets, or certain newsstands  
11       or certain chains would prefer to do business  
12       with Kitchener News    --    may I continue?

13                   Q.    Yes.

14                   A.    He was also advised at  
15       that time we would then investigate to see  
16       the reasons why.    I was not accusing Mr. Cosgrove  
17       of any subterfuge or anything like that, but  
18       it is a common practice for a dealer, when  
19       somebody says "I don't want this magazine.  
20       I don't want to do business with this wholesaler".  
21       We just felt it would be fair to ourselves  
22       and to Mr. Cosgrove and the publications we  
23       represent, to investigate each dealer's complaint  
24       or each dealer's reason.

25                   Q.    I still don't quite understand  
26       why you changed your stand from the stand you  
27       took on the telephone to Mr. Hill, when you  
28       didn't even know the purchaser's name?

29                   A.    Because I then knew who some  
30       of the purchasers were and I realized that this





1 was a very important problem or concern of Mr.  
2 Cosgrove's. Perhaps it was partly in the form  
3 of sympathy, partly empathy between us, probably  
4 it could have been emotion in my dealings with  
5 Mr. Cosgrove.

6 Q. At this time, June 10th,  
7 you knew the identity of the purchaser?

8 A. I did.

9 Q. And you had no objection  
10 to those persons?

11 A. I had an objection, yes,  
12 but I still say we have the right, because we  
13 do not operate on geographical limitations or  
14 geographical boundaries. Our history, both  
15 here in Ontario, and throughout the United States,  
16 is that in many areas we have as many as  
17 four distributors going into the same geographical  
18 area.

19 Q. Do you have any objection to  
20 Mr. Cosgrove?

21 A. I did have an objection to  
22 him, but ---

23 Q. What was that?

24 A. I felt that he did not at  
25 one point have the ability to properly manage  
26 an operation the size of Metro News.

27 Q. Would that objection apply  
28 to Kitchener?

29 A. It could. However, the  
30 circumstances under which Mr. Cosgrove was







1 involved in Kitchener, a much more limited  
2 operation in scope, in size, perhaps he could  
3 then make a go of it and I certainly did not  
4 want to inhibit or cause him, after the fact,  
5 to suffer on someone else's error, in  
6 not asking if we would sell magazines to him.

7 Q. You say someone else's  
8 error. You are referring to the error of Mr.  
9 Hill?

10 A. I am referring to the error  
11 of Mr. Hill and Mr. O'Brien and Mr. Bramall.

12 Q. Why would that not also  
13 be the error of Mr. Cosgrove, who was also a  
14 purchaser?

15 A. His interests there financially,  
16 were minor and, certainly all of them were  
17 aware of the usual practices and procedures  
18 in the purchase of an agency.

19 Q. Now, I believe that your  
20 company distributes TV Guides to Mr. O'Brien  
21 in the Hamilton area?

22 A. Right.

23 Q. And various other areas  
24 in Ontario?

25 A. Right.

26 Q. Would your company have  
27 any objection at all to supplying an additional  
28 number of copies of TV Guide to Mr. O'Brien in  
29 the Hamilton area for distribution in the  
30 Kitchener area?





1 A. As long as it did not  
2 create conflict at the dealer level.

3 Q. Well, if the dealers wanted  
4 to deal through Kitchener News Company and Mr.  
5 O'Brien purchased the TV Guides through Hamilton  
6 and gave them to the drivers in Kitchener,  
7 would that create any conflict?

8 A. Only if there were two or  
9 three different drivers trying to supply the  
10 same dealer with copies of the same magazines.  
11 That could create a conflict because the dealer  
12 would not know who he was getting his magazines  
13 from, who to make a return to -- returns to --  
14 and when he is getting delivery and how he  
15 is getting delivery.

16 Q. We have been told that the  
17 purchase of Kitchener News Company Limited  
18 was accomplished by a purchase of stock, that  
19 is, the company itself remained but the  
20 shares were transferred. Do you require your  
21 Ontario wholesalers to supply your company  
22 with a list of their shareholders?

23 A. No, we do not.

24 Q. Well, then, suppose the  
25 minority interests were sold, that is, the  
26 minority stock interests were sold. Would you  
27 require to be told about that? Suppose 40  
28 per cent of the stock ---

29 A. We would like to know who  
30 the people were who were going to enjoy the





1 profits that would accrue through the sales  
2 of our magazines.

3 Q. In other words, you would  
4 require to be advised of the beneficial owners  
5 of the stock?

6 A. Of the stock or otherwise,  
7 partnership, or whatever.

8 Q. Why?

9 A. We feel they have an influence  
10 in the operations of that particular operation.

11 Q. In what way?

12 A. In one way it is whether  
13 they are minority or majority holders, they  
14 would have greater profits and, therefore,  
15 perhaps reduce services or reduce operational  
16 cost to the extent that it would affect the  
17 efficiency of the operation.

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1 Q. What you are looking for is  
2 an efficient operation?

3 A. Correct.

4 MR. CAMP: Mr. Holland, there is a  
5 point here that interests me and I would like to go  
6 back to it. I believe Mr. Lichtenberg has said  
7 that it is not unusual that TV Guide is no respecter  
8 of territory, that they have as many as four  
9 wholesalers operating in what has been described  
10 as a single territory, am I right?

11 THE WITNESS: You are right.

12 MR. CAMP: And then in the matter  
13 of the Kitchener situation he had to consider  
14 whether or not it would be right to have two there  
15 because of his concern that there would be  
16 confusion among the dealers and between the drivers,  
17 as I understand it. What I don't understand is  
18 how you can refuse to give them to two dealers  
19 when you have four in some places?

20 THE WITNESS: It sounds confusing,  
21 if I could explain. Usually there is an expressed  
22 interest on the part of one party to supply certain  
23 dealers. These may be due to ethnic areas which  
24 you are not affected with so much up here although  
25 we are in some of the cities in the States where  
26 the primary geographical wholesaler feels that  
27 the supply to certain dealers is not economically  
28 sound and has no arrangements either through a  
29 subsidiary distributor or a rack jobber, if you  
30 know of that classification, to supply those accounts.





1        However, there is always some person who is a  
2        little hungry and who is willing to work with their  
3        own muscle and sweat and go out in a station wagon  
4        or on a bicycle or somehow and supply those accounts.  
5        Their price structure is no different to them if  
6        they are selling 1,000 copies to one that is selling  
7        100 copies. I hope I am not attempting to discount  
8        anybody else's methods of circulation but I think  
9        it is obvious that especially TV Guide and Seventeen  
10       are high single copy sales. We believe in that  
11       form of distribution and we have pursued it so  
12       that here especially in Canada our subscription  
13       copies only represent approximately 11 per cent.

14                    In order to develop this pursuit  
15       of single copy sale circulation we in both Canada  
16       and the United States and other areas, have adopted  
17       this availability program and if we feel -- and  
18       we don't quarrel if a geographical wholesaler, so-  
19       called, says that certain accounts which we have  
20       developed -- if an account can sell 10 copies or  
21       5 copies of TV Guide a week and he is willing to  
22       accept a rack from us which is bought and paid for  
23       and installed, and he only makes 40 cents by selling  
24       10 copies or 20 cents for selling 50 we feel that  
25       he should be supplied with his copies.

26                    We also feel that at a certain point  
27       it is not profitable for the wholesaler who may be  
28       paying a high union wage and you can get all kinds  
29       of figures bandied about as to when to stop the  
30       delivery course on one magazine. We don't feel that







1 it is economically sound to reduce his profits in  
2 that fashion so again we find other methods.

3 Now, here in Ontario we have an  
4 organization called Devon News which operates out  
5 of Toronto who has some 125 retail accounts that  
6 he supplies by mail.

7 MR. CAMP: By sending them in bulk  
8 shipments?

9 THE WITNESS: In bulk shipments  
10 to the actual distributor. He is responsible to the  
11 actual outlet.

12 MR. CAMP: By using the post office?

13 THE WITNESS: By using the mails,  
14 so that any little dairy store that wants a  
15 magazine is unique, it has this high single copy  
16 sale.

17 MR. CAMP: I didn't know you had  
18 that competition.

19 THE WITNESS: On the last count,  
20 counting newspapers and so on we had 465 competitive  
21 programs.

22 MR. CAMP: I guess the newsstand  
23 level is the most significant?

24 THE WITNESS: Yes.

25 MR. CAMP: It is not necessarily in  
26 your interests to recognize the custom of maintaining  
27 these geographical territories as exclusive to any  
28 particular wholesaler?

29 THE WITNESS: No, it is not the custom  
30 and this is probably predicated unfortunately -- and







1 I am not knowledgeable of certain trade federal and  
2 provincial here in Canada -- the federal government  
3 in the United States established certain rules  
4 under which we live but even prior to that time  
5 there have been numerous instances where we sold  
6 through another party.

7 MR. CAMP: This tends to discourage  
8 what you call wholesaler monopoly or wholesaler  
9 combinations.

10 THE WITNESS: We have no fear of that.  
11 We feel that since we are highly involved in the  
12 sale of TV Guide, especially in food stores, and  
13 some 74 per cent of our single copy sale is in  
14 food outlets --

15 MR. CAMP: In the United States?

16 THE WITNESS: It goes right across,  
17 probably. I am talking of total average. We feel  
18 a little modern pop store that stays open from  
19 7 o'clock in the morning until midnight and wants  
20 to try to sell TV Guide along with the other things  
21 that he or she is entitled to that opportunity.

22 Now, this may seem very altruistic  
23 but it is not. It put our current circulation to  
24 its present 10 million.

25 DR. JEANNERET: You suggested,  
26 Mr. Lichtenberg, that one of the options that was  
27 open to you when you first learned of the sale of  
28 Kitchener News was to go in there on a direct basis,  
29 "go in there on a direct basis ourselves". It  
30 is the first time we have heard that. Would you mind





1 expanding on that?

2 THE WITNESS: That is always an  
3 option and it has been an established option on  
4 the part of two magazines in particular -- Woman's  
5 Day and Family Circle.

6 DR. JEANNERET: They are distributed  
7 by the national distributor at the wholesale level?

8 THE WITNESS: Both ways. They are  
9 their own distributors, national distributors and  
10 for some cases, for whatever reason, they go direct  
11 in bulk shipments to warehouses of the larger  
12 chains who then, in turn, make a distribution.

13 DR. JEANNERET: They become their  
14 own wholesalers?

15 THE WITNESS: Yes. Also, any one  
16 of our publishers which we represent, other than  
17 TV Guide and Seventeen, have the option of making  
18 direct distribution of certain of their magazines  
19 and again this is a matter of economics, mostly  
20 on the part of the wholesaler. We would not expect  
21 a wholesaler to distribute one title such as  
22 Popular Photography to a photography store which is  
23 a natural outlet for magazines of that nature.  
24 So that the publisher there makes a direct delivery  
25 to that type of artist who handles many special  
26 interest magazines.

27 By the same token our magazines we  
28 represent, we have no exclusivity and they can  
29 make a decision to distribute as they see fit to  
30 any dealer in any area.







1 THE CHAIRMAN: I wonder, Mr. Lichtenberg,  
2 if you can give us an example in Canada where you do  
3 not supply a single wholesaler in a geographic area?

4 THE WITNESS: Well, I think Devon  
5 News here in Toronto is one example.

6 THE CHAIRMAN: That is by mail but  
7 I am talking about the situation such as Metro  
8 Toronto News where they have a particular area and  
9 Windsor -- some instance where you have permitted it.

10 THE WITNESS: We do not examine  
11 the geographical areas and say, "Your line stops  
12 here and starts there". We depend upon a sort of  
13 gentleman's agreement to respect these things.  
14 Should a case come up of people trying to cross  
15 lines, I doubt if we would take any action whatsoever  
16 because we do not feel, following our American  
17 experience, our interpretation of it,  
18 there are any such things as geographical patterns.  
19 We are looking for a maximum unconfused distribution  
20 at an efficient level.

21 MR. HOLLAND: With respect, I  
22 don't think he answered the Chairman's question.

23 THE WITNESS: No, I have no knowledge  
24 of any other areas of that nature.

25 MR. CAMP: What are your sales  
26 at this level?

27 THE WITNESS: I will have to get that.  
28 I would assume in the 125 accounts it probably  
29 approximates 1250 or 1500 copies.

30 THE CHAIRMAN: Since your firm is doing





1 business in Canada, how long has it been doing  
2 business in Canada?

3 THE WITNESS: McMurray  
4 Publications Limited was incorporated in Canada  
5 in 1923.

6 THE CHAIRMAN: Does Triangle, as  
7 a corporation, do business in Canada?

8 THE WITNESS: No.

9 THE CHAIRMAN: Do you bill under  
10 Triangle's billing any people in Canada?

11 THE WITNESS: We bill the outside  
12 publications including Seventeen from the United  
13 States. TV Guide is billed in Canada by McMurray  
14 Publishing Company Limited.

15 MR. CAMP: Could I clarify this?  
16 Is it Murray or McMurray Publishing Company?

17 THE WITNESS: It is McMurray  
18 Publishing Company Limited.

19 THE CHAIRMAN: Does Triangle have  
20 an interest in that firm?

21 THE WITNESS: It is a wholly owned  
22 subsidiary.

23 THE CHAIRMAN: How long has it been  
24 a wholly owned subsidiary?

25 THE WITNESS: It has been established  
26 since its incorporation in 1923.

27 THE CHAIRMAN: Since you have been  
28 doing business, you personally, have you ever sought  
29 or has your firm sought, legal advice about the  
30 laws of Canada in relation to trade practices?





1 THE WITNESS: Oh, yes,

2 THE CHAIRMAN: You have. Have you  
3 yourself had any counsel on this regard?

4 THE WITNESS: I have never found  
5 in my experience in dealing at the distribution  
6 level that there was any conflict or misunderstanding  
7 of any of the laws. I understood there were no  
8 geographical limitations or designations, there  
9 was no action of any monopolistic practices as  
10 far as distributors are concerned.

11 I can recall the days when here in  
12 Toronto there were four different local distributors  
13 one of which, of course, was the American News  
14 Company. We checked constantly from time to time  
15 because we are forbidden to even suggest a retail  
16 price in the United States and I would assume that  
17 when a guide goes out with a price change  
18 we do not suggest a retail price even here in Canada.

19 THE CHAIRMAN: Do you know what  
20 the law is in Canada in this regard?

21 THE WITNESS: I understand that we  
22 can suggest a retail price.

23 DR. JEANNERET: You can or can't?

24 THE WITNESS: That we can suggest a  
25 retail price. It is merely a suggestion.

26 DR. JEANNERET: If you can't you  
27 would have a hard job working your discount schedule.  
28 May I ask one question from the point that the  
29 Chairman has been raising?

30 You consider -- and I am not passing





1 judgment on this -- you consider that you have  
2 the right to accept orders or to refuse orders from  
3 wholesalers as you wish?

4 THE WITNESS: Yes.

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1 THE CHAIRMAN: There was one  
2 matter that we might pursue now. The witness  
3 said that it is our intention to give to Kitchener  
4 some opportunity. Can you tell me what the  
5 intention is? We did not get very far.

6 MR. HOLLAND: Q. You told us  
7 about this meeting on June 10th with Mr. Cosgrove  
8 and then, I believe, you made some investigation?

9 A. If I may pursue that, even  
10 though I can't give you the actual times, following  
11 the meeting with Mr. Cosgrove, Mr. O'Brien and  
12 Mr. Bramall came to my room, which Mr. Cosgrove  
13 had attended. This was just between the two  
14 of us, and Mr. O'Brien and Mr. Bramall obviously  
15 were not aware of the meeting that I had with  
16 Mr. Cosgrove, and because their opening remarks  
17 were that they indicated that they would like  
18 to talk this thing out. I said there was  
19 no necessity to talk it out. I had met with  
20 Mr. Cosgrove and had advised him that the door  
21 was open, with certain judgments or peripheral  
22 conditions, but I also told them that, upon  
23 receipt of information from dealers in the  
24 Kitchener area who, for some reason or other  
25 preferred to do business with the Kitchener  
26 organization, that we would investigate those  
27 suggestions and then our judgment, if these  
28 were sound and legitimate reasons, that we  
29 would then consider the supply to Kitchener  
30 News Company, allotting them copies to supply those





1 dealers.

2 Q. Now, then, did you receive  
3 requests ---

4 A. We have received some requests  
5 and we have called on, as of a few weeks ago,  
6 we have called on some of the dealers.  
7 Subsequently, or during that period, Mr. Northorp,  
8 who, in our table of organization, reviews these  
9 matters, because he is our expert here and more  
10 knowledgeable about the day-to-day activities,  
11 he was on his holidays and he just came back  
12 last week and the decision will be made, or  
13 already has been made, or the time has been  
14 set to be certain of supplying Kitchener News  
15 with copies to supply certain accounts.

16 MR. CAMP: So then, you will  
17 have two wholesalers in Kitchener?

18 THE WITNESS: Yes.

19 THE CHAIRMAN: Why would you give  
20 that back to Kitchener what you have taken away?

21 THE WITNESS: I don't think  
22 we took anything away. We have just not  
23 sold, or allotted copies.

24 THE CHAIRMAN: You took away  
25 the right to sell your copies, would you put  
26 it that way? You took away something, Mr.  
27 Lichtenberg.

28 THE WITNESS: We stopped selling.

29 MR. HOLLAND: Q. Refused to  
30 supply?





1 A. We stopped selling.

2 Q. You would get the order  
3 but not fill it?

4 A. It is not really an order  
5 because no wholesaler sets his own orders  
6 to that degree. Usually an allotment is set.

7 THE CHAIRMAN: You still have  
8 not answered my question. Why would you give  
9 them back, not the entire opportunity to distribute  
10 to retailers in the Kitchener area and have  
11 Metro News stay within their prior sales limits?

12 THE WITNESS: That is a good  
13 question, Mr. Rohmer. (Laughter)

14 Let me go back to my remarks.  
15 There was no reason at some future date why  
16 this might not be done, because we are married  
17 to no one. We are wholesalers.

18 THE CHAIRMAN: You are  
19 not married, but you are sleeping with them!  
20 (Laughter)

21 THE WITNESS: No, we are not.

22 THE CHAIRMAN: I wonder if  
23 we might have a break now?

24  
25 ---Recess

26  
27 THE CHAIRMAN: As I recall, Mr.  
28 Holland, the witness was contemplating the  
29 question as to whether or not he should give back  
30 the Kitchener sales opportunity. I wonder if







1 he has come to any decision or whether he wants  
2 to reserve on that question at this time?

3 MR. HOLLAND: Q. Did you?

4 THE CHAIRMAN: Let me put it  
5 this way: You were considering what you thought  
6 to be a good question about whether or not  
7 you might give back the sales opportunity that  
8 they originally had in Kitchener, give back to  
9 Kitchener News. Have you made any decision  
10 on that, or is it something you want to contemplate  
11 in the future?

12 THE WITNESS: I think the  
13 indication, and actually the act, we could  
14 arrange to supply TV Guide to Kitchener News  
15 for dealers who have indicated a desire,  
16 though not a great one, to handle the TV Guide  
17 and our other magazines through Kitchener News,  
18 would be an indication that our door is open  
19 and I would not presume to establish a date.  
20 Our policies are always open and I would  
21 contemplate on it and exercise a judgment from  
22 time to time. I would not, frankly, give  
23 them back everything in one fell swoop, but  
24 I feel the accommodation to Metro, that my  
25 request, or my question they did move in and,  
26 naturally, had to reorganize, certainly, routes,  
27 probably hire manpower, but I don't know  
28 I feel they should be given an opportunity.  
29 Likewise, I feel Mr. Cosgrove and Kitchener  
30 News should be given an opportunity to display





1 their efficiency and ability to sell our magazines,  
2 but I am afraid I cannot at this time give  
3 you a definite program and a timetable.

4 THE CHAIRMAN: Mr. Holland?

5 MR. HOLLAND: Q. Suppose  
6 that Mac's Milk Company in Toronto, which operates  
7 a number of stores, came to you and asked  
8 to buy TV Guide direct, would you supply them?

9 A. No, we would not.

10 Q. Why?

11 A. It is not our policy to  
12 supply any dealers direct at this point. There  
13 have been many occasions when we would like to,  
14 but we have always been interested in the  
15 growth and development of the independent,  
16 geographical wholesaler and it would just open  
17 up the opportunity for other chains of greater  
18 significance, such as Dominion, Loblaws, Steinbergs,  
19 A & P and others, to say "Since you are doing  
20 it here, why don't we do it?" We don't feel (a)  
21 regardless of the quality of the wholesalers'  
22 abilities, that a direct business is in our favour.  
23 We don't like to get mixed up with the canned  
24 tomato soup and the boxes of lettuce and peas.  
25 We know that when a wholesaler makes a distribution  
26 to a store, they are at that store at that time.

27 DR. JEANNERET: Do you sell  
28 Popular Library editions direct to booksellers  
29 under any circumstances?

30 THE WITNESS: No, we do not.





1 MR. HOLLAND: Q. Is your  
2 rate for TV Guide the same to all Ontario  
3 geographical wholesalers?

4 A. Right, 9 cents a copy.

5 Q. Is the rate for Seventeen  
6 Magazine for all Ontario geographical wholesalers  
7 the same?

8 A. Yes.

9 Q. Is your rate for all the  
10 publications of Triangle Publications the same  
11 for all wholesalers?

12 A. There is a difference in the  
13 book prices. Some range from 40 to 44 or  
14 as much as 46. This depends upon the local  
15 situation where, in order to meet the existing  
16 discounts offered by others, and by others I mean  
17 other North American distributors, and depending  
18 upon the account we supply, we then meet the  
19 current situation.

20 Q. Does it depend, to some  
21 extent, upon the volume of the Ontario geographical  
22 wholesalers?

23 A. No. It is strictly on a  
24 local situation.

25 Q. Suppose someone gets a good  
26 deal from Dell Publishing and you try to match it?

27 A. We don't try to match it.  
28 We try to see what kind of service, and we might  
29 enlarge our discount, what kind of service is  
30 rendered to us. If a small wholesaler comes to







1 us and wants to protect his business in certain  
2 books that he needs a better discount, and  
3 since we are not selling direct to that bookstore,  
4 nor would we, for him to continue to supply  
5 that bookstore by giving the bookstore a greater  
6 discount, we would arrange then to give him  
7 a discount so that he could supply it.

8 DR. JEANNERET: You are saying,  
9 in effect, Mr. Lichtenberg, that for competitive  
10 reasons alone, it is conceivable that you might  
11 give a larger discount to a smaller account or  
12 a larger discount on a smaller volume of business  
13 than you would give to a larger volume business  
14 elsewhere?

15 THE WITNESS: We never examine  
16 it from a volume standpoint. It is a service,  
17 a local condition which, in order to protect,  
18 or permit the wholesaler to meet the competition  
19 of direct suppliers he either has arranged  
20 with the North American distributors or other  
21 publishers, to supply those accounts, but has  
22 had to give them a better discount than he  
23 would give the ordinary, over-the-line dealers,  
24 we then examine it and, base it on its merits --  
25 there is no volume discount.

26 DR. JEANNERET: Local conditions  
27 related to competition and force of competition?

28 THE WITNESS: Variations of  
29 two, four, six and seven. Actually, the  
30 distributor has a responsibility to his





1 publisher.

2 MR. HOLLAND: Q. As I understand  
3 it, you will not supply TV Guide or Seventeen  
4 Magazine direct to a retailer?

5 A. That is correct.

6 Q. It is exclusively to  
7 geographical wholesalers?

8 A. Right.

9 Q. Do you know what the situation  
10 is with regard to paperbacks?

11 A. As far as we are concerned,  
12 we deal strictly through wholesalers.

13 Q. Will you or your company  
14 supply paperbacks direct, say, to a bookstore?

15 A. We will not. This does  
16 not say that the publisher will not do it.  
17 He has that prerogative, but here in Canada  
18 the Better Publications Inc., which is a  
19 subsidiary of Popular Library, I understand,  
20 has become a subsidiary of Columbia Broadcasting  
21 System -- has that privilege.

22 Q. All right. Now, just before  
23 I stop, Mr. Lichtenberg, you testified that on  
24 April 21st or 22nd, I think you said ---

25 THE CHAIRMAN: Who is becoming  
26 a subsidiary of CBS?

27 THE WITNESS: We have been  
28 talking here about Popular Library. They have a  
29 Canadian subsidiary and I don't know how  
30 it is controlled or owned, known as Better





1 Publications Inc., but on the 1st of June a  
2 letter of intent between the Columbia Broadcasting  
3 System -- the American CBS ---

4 THE CHAIRMAN: We can identify that.

5 THE WITNESS: Which also will  
6 own Holt Rinehart Publishing, there was a  
7 letter of intent between Haines Incorporated,  
8 which owns Curtis Circulation Company, to sell  
9 Popular Publications, and I would assume along  
10 with it, Better Publications Inc. We are  
11 not privileged to know what is going on in  
12 that sense, to the Columbia Broadcasting or  
13 the umbrella corporation.

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1 All I know is that there  
2 is a letter of intent between them. How arrangements  
3 are or agreements with Popular Library as a  
4 Better Publication I don't know.

5 MR. HOLLAND: Q. Mr. Lichtenberg, you  
6 have told us that on April 21st or maybe April 22nd  
7 you spoke to Mr. Molasky in St. Louis and asked  
8 him whether or not Metro News would be prepared  
9 to distribute in the Kitchener area, that is  
10 correct?

11 A. That is correct.

12 Q. I want to read to you  
13 briefly from the evidence of Mr. Molasky. I  
14 think you were present last Tuesday when he  
15 gave evidence before the Commission?

16 A. I was here.

17 Q. I want to read to you from  
18 that evidence, page 2892, starting at line 9:

19 " The Chairman: Just before we break  
20 for lunch if I may ask one or two  
21 questions. Between the time that you  
22 had the conversation with Mr. Hill  
23 in which you said that you would pay  
24 \$50,000 more than whatever the price  
25 was that this group, Cosgrove and  
26 others, were prepared to pay without  
27 knowing what it was, about when was  
28 that -- April 21st or so?

29 The Witness: Yes.

30 The Chairman: Between that time, let





1       "

us put it that way: you made another  
call to Hill the next day and that  
was April 22nd?

The Witness: Right.

The Chairman: Between that time and  
the time that Triangle made its  
decision, do you know when Triangle  
made the decision and notified Hill  
they were no longer interested?

The Witness: I was notified, I believe,  
the 28th of May.

The Chairman: By whom?

The Witness: Mr. Hugh Proctor.

He is assistant circulation manager.

The Chairman: What did he notify you?

The Witness: He asked if I would  
be their distributor in Kitchener and  
expressed he would like to have an  
answer as soon as possible.

Mr. Camp: Wasn't it the other way  
around?

The Witness: Absolutely not.

The Chairman: Did you between that  
time, the 28th of May and the 21st of  
April have any discussion with  
anyone in the executive of Triangle  
including Mr. Lichtenberg in connection  
with Kitchener's position?

The Witness: No."





1 Now, you have heard that evidence. It obviously  
2 conflicts with yours?

3 A. I think the dates are  
4 wrong.

5 Q. The date the 28th of May  
6 may be the 28th of April. Let us assume that it  
7 was. Having heard the evidence, was that evidence  
8 of Mr. Molasky correct, was it true? When he said  
9 he had no conversation with you at all, was that  
10 true?

11 A. I had a conversation with  
12 him regarding the ability for him to handle our  
13 magazines in the Kitchener area.

14 Q. So that answer then of  
15 Mr. Molasky's was incorrect when he said he had  
16 no conversation?

17 A. I don't know what he was  
18 referring to.

19 MR. HOLLAND: Those are all the  
20 questions I have, Mr. Chairman.

21 MR. SEDGWICK: I don't have my  
22 copy but it is my strong recollection that  
23 Mr. Molasky said he heard on the 21st.

24 MR. CAMP: Mr. Lichtenberg, we are  
25 all benefiting from your expertise. I must tell  
26 you that while you say that Pierce News is merely  
27 another local distributor, Mr. Molasky says TV Guide  
28 is just another magazine thrown on the truck, so  
29 maybe you should examine your relationship in that  
30







1 light with regard to Kitchener. You have, I assume,  
2 annual sales meetings, meetings with your staff?

3 THE WITNESS: Correct.

4 MR. CAMP: Did you ever have a sales  
5 meeting in St. Louis?

6 THE WITNESS: We did.

7 MR. CAMP: You don't have an outlet  
8 in St. Louis, you don't have any sales office in  
9 St. Louis?

10 THE WITNESS: No, we hold our meetings  
11 on a regional level at our regional bases bi-  
12 annually with the number of men we have in the field,  
13 some 135 plus 10 or 15 men from junior management  
14 level at the home office. We select our sites  
15 as to the convenience of travel and in an effort to reduce  
16 the cost of travel.

17 MR. CAMP: I don't suppose it is  
18 extremely important but where was the meeting held  
19 prior to the meeting in St. Louis, the year before?

20 THE WITNESS: Well, we have had three  
21 meetings this year -- one in San Diego because it  
22 is a lovely city and easy to get in and out of and  
23 St. Louis because it is, as I said before, convenient  
24 for the whole Mississippi Valley as I call it, and  
25 one in Washington, DC which gives us an opportunity  
26 to give a lot of people the opportunity to see how  
27 the federal government operates.

28 Two years ago it was also held in  
29 San Diego because I like it and then in Chicago where  
30 we have the airport and because it was a snowy night we





1        could get to the city and at Cherry Hill where  
2        we made it convenient to bring people in who  
3        ordinarily would not come.

4                MR. CAMP: When was the last sales  
5        meeting held in Canada?

6                THE WITNESS: Well, in addition to general  
7        meetings we meet periodically with our Canadian  
8        field representatives and we had a sales meeting  
9        here on or about June 9th or 10th where we met  
10       with our eastern people.

11               MR. CAMP: Do any of your Canadian  
12       sales personnel attend your American sales  
13       meetings?

14               THE WITNESS: Some of them. They  
15       would come to St. Louis or Chicago and for a treat  
16       we bring them to California, some place in the  
17       east.

18               MR. CAMP: You had a reception for  
19       your sales force when you were in St. Louis, one  
20       of these happiness hours?

21               THE WITNESS: Yes.

22               MR. CAMP: Where did you have it in  
23       St. Louis, do you remember?

24               THE WITNESS: Our meeting was held  
25       at the Clayton Inn.

26               MR. CAMP: Was there a reception at  
27       the Molasky ranch?

28               THE WITNESS: There was a reception  
29       held and some of our wives were there from the home  
30       office and a cocktail party was held at Allan





1 Molasky's home.

2 MR. CAMP: Home or ranch, or is the  
3 ranch a home?

4 THE WITNESS: I don't know, it looked  
5 like a home to me.

6 MR. CAMP: Not every home is a ranch.

7 THE WITNESS: No, but this is a  
8 common practice in selecting any city for the  
9 wholesaler who happens to be located there to  
10 brighten up the entire staff but the bigshots, so  
11 to speak, and their weives, to come to some social  
12 activity or reception.

13 MR. CAMP: The wholesaler threw  
14 the party?

15 THE WITNESS: Yes.

16 MR. CAMP: Was Mr. Allan Molasky  
17 there?

18 THE WITNESS: He was.

19 MR. CAMP: Mr. Mark Molasky?

20 THE WITNESS: Yes.

21 MR. CAMP: Mr. Lichtenberger?

22 THE WITNESS: I was.

23 MR. CAMP: Tell me, when the  
24 London geographical wholesaler was sold in Ontario,  
25 who gave you prior notice of the sale and who asked  
26 for your agreement? Does the map help you?

27 THE WITNESS: Yes. As has always  
28 been the case with interested parties on the phone --

29 MR. CAMP: Who was the interested  
30 party Mr. Lichtenberg?







1 THE WITNESS: The seller and the  
2 purchaser.

3 MR. CAMP: What was the seller's  
4 name?

5 THE WITNESS: It has escaped me for  
6 the moment.

7 MR. CAMP: The vendor from London  
8 called you and informed you of his proposal  
9 to sell and asked you if you would agree?

10 THE WITNESS: He either called me or  
11 called Mr. Northorp. The call doesn't have to be  
12 made directly to me: it could be made to one of  
13 my representatives because I am often out of the  
14 office.

15 MR. CAMP: I appreciate that,  
16 Mr. Lichtenberg. I am out of the office more than  
17 I am in and I assume you are too, but do you know?

18 THE WITNESS: I know that a call was  
19 made. Whether it was made directly to me or  
20 to Mr. Northorp or one of my associates, I can't  
21 say offhand.

22 MR. CAMP: I don't want to be hard  
23 on anybody, but do you recall that there was a  
24 call made to you?

25 THE WITNESS: No, I am sworn here and I  
26 could not affirm or attest to the fact that I  
27 received that phone call.

28 MR. CAMP: It need not necessarily  
29 be Radnor Pennsylvania that is informed by the vendor  
30 but he could call Mr. Northorp here in Toronto and





1 clear it with him?

2 THE WITNESS: Well if he would act  
3 as the messenger then he would call us.

4 MR. CAMP: In the case of London,  
5 you can't recall whether or not Radnor called  
6 Mr. Northorp who then called you or whether the  
7 vendor called you?

8 THE WITNESS: No, I can't.

9 MR. CAMP: What about the sale in  
10 Sarnia, do you recall that?

11 THE WITNESS: Yes, Mr. Halliley phoned.

12 MR. CAMP: Mr. Halliley called?

13 THE WITNESS: I don't know whether  
14 he called me at that point but we had a conversation  
15 I know that.

16 MR. CAMP: Before or after the sale?

17 THE WITNESS: Before.

18 MR. CAMP: You don't know whether he  
19 called you or you called him?

20 THE WITNESS: No, it was a mutual  
21 understanding through the Toronto office.

22 MR. CAMP: Through the Toronto office?

23 THE WITNESS: Yes.

24 MR. CAMP: So they informed the  
25 Toronto office and presumably you got your information  
26 about the sale from the Toronto office?

27 THE WITNESS: Yes. If I may interrupt  
28 without attempting to establish certain protocol  
29 there is a strong feeling that since here in all of  
30 Canada Mr. Northorp is the assistant circulation





1 manager of the area, the procedure was usually to  
2 get in touch with him first.

3 MR. CAMP: I don't know whether we  
4 can pin this down but in the case of Mr. Halliley  
5 you believe that the first approach was made in  
6 regard to the possibility of the transfer to  
7 Mr. Northorp?

8 THE WITNESS: I don't know.

9 MR. CAMP: You just don't know?

10 THE WITNESS: I don't know.

11 MR. CAMP: Now, with regard to the  
12 sale in Windsor, who phoned you to clear that?

13 THE WITNESS: The purchaser called.

14 MR. CAMP: Did he call you before  
15 the sale?

16 THE WITNESS: Before the sale.

17 THE CHAIRMAN: What do you mean by  
18 "the sale"? Are we talking about before the  
19 agreement?

20 THE WITNESS: I don't know whether  
21 it was when the buyer and seller were negotiating  
22 or whether there were any written or verbal agreements.

23 THE CHAIRMAN: Do you remember  
24 whether it was before the written instrument was  
25 signed or after the instrument was signed,  
26 assuming there was an instrument in every case?  
27 When do you have to know before you are happy?

28 THE WITNESS: We would like to know  
29 at the time there is probably a handshake made or  
30 a conversation going on, so that both the seller







1 and the buyer are clear on the fact that we are  
2 going to sell our magazines to the new party.

3 THE CHAIRMAN: And where you get  
4 upset is where they actually sign the document  
5 without your knowledge, is that a fact?

6 THE WITNESS: Well, whether it is  
7 signed or not, again we like to know with whom we  
8 are going to do business and we do not require  
9 people to descend upon us in Radnor or on  
10 Mr. Northorp in Toronto or any other place.

11 THE CHAIRMAN: It doesn't matter  
12 really whether it is before or after the document  
13 is signed: you just have to know somewhere along  
14 the line who it is?

15 THE WITNESS: We like to know  
16 beforehand because we then perhaps in our decision,  
17 if it is a negative one, as far as the new  
18 purchaser is concerned, then realize that he is  
19 not going to distribute TV Guide and perhaps this  
20 would affect his judgment or his thoughts or his  
21 ideas of whether he is purchasing.

22

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1 MR. CAMP: How  
2 did you hear the news about the sale of Belleville?

3 THE WITNESS: That, I heard  
4 through both Mr. Colebourne and Mr. Molasky.

5 MR. CAMP: Prior to the sale?

6 THE WITNESS: Yes.

7 MR. CAMP: Prior to the signing  
8 of the agreement ---

9 THE CHAIRMAN: . . . or after  
10 the signing of the agreement?

11 THE WITNESS: I didn't know about  
12 that and I still don't know it, except the  
13 testimony I heard. It was a discussion held  
14 early in the year, an approach made and an  
15 intention was expressed by the parties involved.

16 MR. CAMP: In all of these  
17 cases, London, Sarnia, Belleville, Windsor,  
18 to the best of your knowledge in each instance  
19 you were given prior knowledge?

20 THE WITNESS: I was.

21 MR. CAMP: Either by the  
22 vendor or by your Toronto agents, or your  
23 Toronto manager?

24 THE WITNESS: Right.

25 MR. CAMP: And in each case  
26 you approved?

27 THE WITNESS: Correct.

28 MR. CAMP: Who bought Windsor?

29 THE WITNESS: Roger Spherer.

30 MR. CAMP: Does he own the whole





1 franchise?

2 THE WITNESS: We sell him  
3 magazines for resale. I hate to keep bothering  
4 you gentlemen on the subject of franchise. In  
5 the States it is a very important word.

6 MR. CAMP: You agreed to his  
7 purchase?

8 THE WITNESS: We agreed we would  
9 sell him our magazine for resale in Windsor,  
10 the geographical area of Windsor.

11 MR. CAMP: Is Mr. Scherer Canadian?

12 THE WITNESS: No, I don't believe  
13 so.

14 MR. CAMP: Where is he from?

15 THE WITNESS: Some place in the  
16 States.

17 MR. CAMP: That is all you  
18 needed to know?

19 THE WITNESS: I know I had  
20 been doing business or have been familiar with  
21 Mr. Scherer back some 20 or 25 years, and  
22 respected his abilities.

23 MR. CAMP: That is enough.

24 THE WITNESS: As a manager and  
25 salesman.

26 MR. CAMP: Does he own all of  
27 the Windsor geographical wholesalers' operations,  
28 or does he have partners?

29 THE WITNESS: I wouldn't know.

30 MR. CAMP: You wouldn't know?







1        You don't inquire into it that deeply?

2                        THE WITNESS:    No. I know that  
3        Mr. Scherer is a good operator and obviously  
4        he has developed good, sound practices, I  
5        would assume, and his assumption of the Windsor  
6        responsibilities would be conducted capably there as  
7        well.

8                        MR. CAMP:    There is a matter  
9        that I am sure that you can straighten out for  
10       me. No one seems to fully understand this,  
11       and that is printing of TV Guide. McMurray  
12       Publication Company Limited here in Toronto,  
13       do they print TV Guide?

14                       THE WITNESS:    No. If I can  
15       offer this as some sort of -- I don't know what  
16       kind of evidence it is -- but on the indicia  
17       in this magazine, and it appears -- this happens  
18       to be an issue of July 17th ---

19                       MR. CAMP:    "Distributed,  
20       assembled and prepared by McMurray Publishing  
21       Company Limited, Canadian edition, copyright  
22       McMurray Publishing Limited, 1971."

23                       THE WITNESS:    Actually, the  
24       assemblage, that is a semantic word ---

25                       MR. CAMP:    That means?

26                       THE WITNESS:    That does not  
27       mean physically assembled by McMurray Publishing  
28       Company. It means that the programmers as well  
29       call them, the editors, et cetera, assemble  
30       the information which is then passed on to the





1 printer, Southam-Murray, which is a contract  
2 printer here in the City of Toronto, which  
3 prints not only this edition, but the Western  
4 Ontario edition and the Montreal-St. Lawrence  
5 edition, which we then export some 60,000 back  
6 to the United States.

7 DR. JEANNERET: I would like to  
8 ask a question on how you manage to export  
9 that if the editorial content is of American  
10 authorship? Do you happen to know?

11 THE WITNESS: I don't think  
12 I can answer the question.

13 DR. JEANNERET: I won't ask you  
14 to, then. I am surprised you are able to  
15 export to the United States American editorial  
16 content manufactured in this country, which  
17 should be in conflict with U.S. copyright.  
18 You can't comment on that? I apologize for  
19 getting a little way ---

20 MR. SEDGWICK: I don't understand  
21 that very well.

22 THE WITNESS: It is a problem  
23 facing the United States Congress today.

24 MR. CAMP: But you re-export  
25 100,000 copies?

26 THE WITNESS: I think the ABC  
27 statements there would indicate ---

28 MR. CAMP: What market?

29 THE WITNESS: This would be in  
30 the New England States of New Hampshire, Vermont





1 and some of New York State, the border towns.

2 MR. CAMP: I would assume that  
3 from the cover and the editorial material and  
4 most of the full-colour advertisements, Salem  
5 cigarettes, for example, all this comes into  
6 Canada in what form: Does it come in in its  
7 printed form?

8 THE WITNESS: It comes in in  
9 an  
10 its printed form as/unassembled magazine and  
11 this is with the approval of your Federal Government.

12 MR. CAMP: I am not ---

13 THE WITNESS: No.

14 MR. CAMP: What you do then  
15 is you insert the Canadian television listings,  
16 so-called?

17 THE WITNESS: 72 pages.

18 MR. CAMP: That is done here?

19 THE WITNESS: That is done  
20 here, plus editorial matters such as on page  
21 1 of the program section, the Canadian Report,  
22 which is editorial matter.

23 MR. CAMP: I don't know what  
24 kind of situation you will be in in answering  
25 to the federal government, if it makes cigarette  
26 advertising illegal, if they do.

27 THE WITNESS: I think we will  
28 no longer carry it. Everyone is equal  
29 under the law and the law affects everybody  
30 else the same way it affects us. We have no  
quarrel.







1 MR. CAMP: McMurray Publishing  
2 Company, can you give me the Canadian circulation  
3 of the Daily Racing Form?

4 THE WITNESS: No, I cannot.

5 MR. CAMP: I have a hard  
6 time determining where your expertise begins and  
7 ends.

8 THE WITNESS: It is an entirely  
9 separate division and, just as for a number of  
10 years we had a newspaper division publishing  
11 the Philadelphia Enquirer and the Daily News and  
12 those, for many years were operated by a  
13 separate circulation department, even. It is  
14 only during recent years that those have been  
15 combined. We did not ever see one another,  
16 did not work together. I attempted at one point  
17 to call a meeting of all circulation managers  
18 and directors and I did, and it was a complete  
19 fiasco because we were all allowed to establish  
20 our own policies, so there was a considerable  
21 amount of conflict between us.

22 MR. CAMP: I think, in the  
23 beginning, you said part of your responsibility  
24 your circulation manager dealt with TV Guide,  
25 Seventeen, pocketbooks -- paperbacks?

26 THE WITNESS: No. We are a  
27 national distributor, North American distributor.  
28 There are publications, various publications  
29 published by other people and, in order to  
30 accommodate that, it is purely an internal matter --





1 I thought in 1962 I was appointed circulation  
2 director of TV Guide. At that time Seventeen  
3 Magazine was being published by the same company,  
4 billed through the same billing office, and had  
5 its own circulation director and its own field  
6 staff and its own policies. A few months  
7 after my appointment, I was asked to become  
8 the circulation director of Seventeen.

9 Following that, we formed a  
10 division, paper division, for Triangle Circulation  
11 Company and I became circulation director of that.  
12 It is ---

13 MR. CAMP: The only publications  
14 you are responsible for are Seventeen and TV  
15 Guide?

16 THE WITNESS: Other than  
17 Lyon Publications, Popular Library, Ziff-Davis  
18 Psychology Today, ---

19 MR. CAMP: Not Modern Bride?

20 THE WITNESS: No.

21 MR. CAMP: You are circulation  
22 director or manager for Triangle Circulation  
23 Company and, therefore, all these publications  
24 I have here -- not all of them but most of them --  
25 are under your jurisdiction and responsibility?

26 THE WITNESS: Yes.

27 THE CHAIRMAN: You are making  
28 reference to Exhibit No. 14?

29 MR. CAMP: Yes. This was  
30 submitted by Mr. Molasky.





1 THE CHAIRMAN: By the way, I  
2 would like to mark the TV Guide, which you  
3 were kind enough to give us.

4 THE WITNESS: These came out  
5 of returns, Mr. Rohmer. (Laughter)

6 THE CHAIRMAN: As Exhibit No.  
7 38.

8  
9 ---EXHIBIT NO. 38: July 17, 1971 issue  
10 of TV Guide

11  
12 THE CHAIRMAN: I take it, therefore,  
13 it is worth no more than we had to pay for it?

14 MR. CAMP: Maybe you can give  
15 me a ball-park figure, and maybe you can give  
16 me a precise figure: How many wholesalers do  
17 you have in the United States?

18 THE WITNESS: Approximately 550  
19 or 600. It varies from day to day. It varies  
20 in the acquisition of one wholesaler by another  
21 group, so, frankly, sometimes you can't tell  
22 who is on first.

23 MR. CAMP: You must have a  
24 difficult time just attending to the transfers  
25 of ownership:

26 I was going to ask you just  
27 on a matter of opinion, in view of your  
28 considerable experience, would it, or would it  
29 not be to the advantage of a publication or  
30 publications such as yours, in a geographical







1 area such as Ontario, which at one time, and  
2 still is, very significant to TV Guide and compares  
3 very favourably to many of your areas in the  
4 States, to have your magazine in the hands of  
5 a single wholesaler, let us say, who had 75 per  
6 cent of Ontario?

7 THE WITNESS: I think we could  
8 work it in two ways.

9 MR. CAMP: You are saying the  
10 answer is yes?

11 THE WITNESS: No. If it  
12 was controlled, as with anything else, a  
13 tremendous amount of recirculation, there is  
14 always the possibility that, through a scare  
15 tactic, he could scare the devil out of the  
16 publisher saying "I have got it and this is  
17 where I am going to handle it. Don't tell  
18 me how to handle it. My God this is how I am going  
19 to handle it!"

20 On the other hand, the publisher  
21 who has a great investment, in a sense, a  
22 circulation investment, also has a certain  
23 amount of clout — I have heard that word used  
24 here -- because a distributor would think  
25 twice before threatening, or using other  
26 means to control or deny certain policies  
27 or prerogatives of the publisher, which he  
28 has.

29 THE CHAIRMAN: He would  
30 think twice before he took away a particular





1 area or place, or firm that that distributor  
2 or wholesaler has purchased, would he not?

3 THE WITNESS: That is possible.  
4  
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1 MR. CAMP: Is there any example,  
2 after looking over this list or in view of the  
3 fact that you have 60,000 -- is that the figure --  
4 wholesalers?

5 THE WITNESS: No. Are you referring  
6 to wholesalers?

7 MR. CAMP: 600 wholesalers. Are  
8 there any of them that dominate a particular  
9 market?

10 THE WITNESS: Yes, as far as chains  
11 are concerned I think I mentioned that A.R.A.

12 MR. CAMP: What is that?

13 THE WITNESS: That is an organization  
14 in the United States.

15 THE CHAIRMAN: What part?

16 THE WITNESS: They operate throughout  
17 the United States. Originally I think they were  
18 called American Retailers -- I don't know what  
19 their title was, who basically or originally were  
20 in-flight, in-plant caterers and if I know their  
21 history correctly they began to investigate the  
22 possibility of operating airplane newsstands since  
23 they were supplying or running some of the  
24 restaurants at airports and they then called upon  
25 an existing wholesaler who already had the rights  
26 to handle newsstands and bought that portion of it  
27 and suddenly found that this magazine business,  
28 which a number of wholesalers up to that time,  
29 had found very unprofitable was very  
30 profitable and slowly they began to accumulative a







1 number of geographical wholesalers so that today,  
2 based on our best estimates, they probably control  
3 in some areas as high as 20 per cent of any  
4 company's single copy circulation.

5 We sell them and they handle  
6 distribution amounting to about 12 per cent.

7 MR. CAMP: 12 per cent of your  
8 total?

9 THE WITNESS: Of our total single  
10 copy TV Guide sales.

11 MR. CAMP: Dispersed throughout  
12 the United States?

13 THE WITNESS: Dispersed throughout  
14 the United States. I might say -- I don't know  
15 whether this would be reported back -- that we  
16 do not intend, that they have had their cup runneth  
17 over and they had better carefully check with us  
18 before they ever purchase another physical asset  
19 because we don't think we will supply the deliveries.  
20 At 12 per cent they have the clout.

21 MR. CAMP: Nobody has the clout  
22 that the distributors have, for example, the American  
23 News. I wanted to try and summarize what I  
24 gathered from what you have been saying, that  
25 as a distributor and an important one, you resent  
26 not being advised and react very strongly when you  
27 are not advised of the sale of a wholesale  
28 operation but the advice when you are given it  
29 is very loosely given and as long as you have some  
30 indication, it seems to be all right but that that





1 policy is your policy and not the policy of  
2 Triangle Publications or not the policy of the  
3 whole house?

4 THE WITNESS: That is correct because  
5 again I agree with your immediate summation.  
6 The indications are, or the intent, as I said before,  
7 has not required somebody to come into Radnor  
8 and waste their time and more importantly, waste  
9 my time and my own people involved so that they  
10 may speak to Mr. Northorp or any of our other  
11 representatives who will immediately relay that  
12 information through channels which are acceptable  
13 to us.

14 MR. CAMP: In the case of Kitchener  
15 you were informed almost immediately after?

16 THE WITNES: I felt after the fact.  
17 I was told in my conversation with Mr. Hill that  
18 this was a cut and dried deal and indicated that  
19 I could take it or leave it. It was my option  
20 which I feel was a just option in deciding to leave  
21 it at that time.

22 In answer to your second question,  
23 since we are separate divisions and since we have  
24 or we recognize in our various divisions and  
25 have people who are more knowledgeable about these  
26 things, we operate in that fashion and each division  
27 makes their own decisions.

28 MR. CAMP: Curtis I am told is about  
29 twice the size in volume as Triangle?

30 THE WITNESS: Frankly, Mr. Camp, I







1 would not know. We are concerned with the  
2 distribution of our property and we are not  
3 interested in size. Basically we have our own  
4 clout and everybody has their own clout and how  
5 that clout is used is their business.

6 MR. CAMP: Triangle was the only one  
7 that used it in the way in which it was used.

8 DR. JEANNERET: I think I just have  
9 one question. I might have two or three parts  
10 to it. Earlier in dealing with the purchase of  
11 geographical wholesalers, you made an interesting  
12 observation when you said that physical assets are  
13 the only thing we think they can buy; in other  
14 words, they were not in a position to buy and sell --  
15 excuse the expression -- the franchises but that  
16 they were, of course, selling and buying physical  
17 assets and probably, having regard to the kind of  
18 sale prices we have heard, I call to mind \$532,000  
19 for the Kitchener operation -- the physical assets  
20 involved, we took no evidence on this as I recall,  
21 but the physical assets might be a very, very  
22 miniscule part of that \$532,000. Wouldn't that  
23 normally be so?

24 THE WITNESS: I would agree with  
25 that.

26 DR. JEANNERET: And normally the  
27 sale price of geographical wholesalers must be  
28 inflated many times over the value of the physical  
29 assets proper, isn't that a reasonable assumption?  
30 This being so, and the sale prices being inflated as







1 they are, then considering the tremendous power  
2 over a wholesaler's business which a national  
3 distributor wields and claims the right to wield,  
4 do you feel -- and I am not suggesting that you have  
5 done this or that there would be anything wrong  
6 about it if you had -- do you feel that the national  
7 distributors might under any circumstances claim  
8 a share in this surplus payment, this surplus  
9 value, if I might call it, over and above the value  
10 of the physical assets?

11 You would like to be in on the sale,  
12 so to speak, if it were necessary to participate  
13 but certainly you would be in a very comfortable  
14 position to have a financial interest in that  
15 transaction?

16 THE WITNESS: No, we do not.  
17 If we were then we would be putting a value on our  
18 magazine and they have no value.

19 DR. JEANNERET: You would be putting  
20 a value on the right to distribute it?

21 THE WITNESS: Well, having the right  
22 to distribute it or distributing the magazine, and  
23 in the case of Kitchener some 40,000 copies average  
24 per week so that there is some \$80,000 per year  
25 involved, we would be saying at some point -- and  
26 I don't know what proportion TV Guide represents  
27 of the Kitchener operation -- and certainly I would  
28 be foolhardy to suggest that the selling of the  
29 magazine, the profit that accrues from selling all  
30 magazines is not somehow represented in this selling





1 price and the purchasing price.

2 However, we as the owners of this  
3 magazine have no value on it, put no value on it.

4 DR. JEANNERET: I find this hard to  
5 follow because you agree that there is a tremendous  
6 value attached to the right to distribute,  
7 whether or not it automatically passes with the  
8 sale and you pointed out that it does and you are  
9 not exploiting this price in any way that I have  
10 been able to determine, yet it has a great commercial  
11 value. This is recognized in these sale prices  
12 which you give your blessing to apparently without  
13 participating in in any way but you like to be  
14 consulted.

15 THE WITNESS: Except as far as the  
16 price because we have found -- and I don't say that  
17 this is the case because I think if we had asked  
18 what the price was, I am glad to see it come out  
19 in evidence, I didn't know it was worth that much,  
20 but --

21 DR. JEANNERET: But according to your  
22 measuring rod it is not worth that much, it is  
23 only worth the physical assets?

24 THE WITNESS: Only in the sense that  
25 if too much is paid and due to some economic  
26 depression or due to some, as we have seen with many many  
27 magazines' loss of interest on the part of the  
28 consumer, -- money doesn't come cheap, the banks  
29 or the people involved have provided that money through  
30 one source or another and so at some point of time







1 as with any organization, something has to give  
2 and what we always fear is that there has been too  
3 much paid for a business and perhaps it will take  
4 that long to pay back and so the business then will  
5 suffer because of certain economies effected by  
6 the lenders or the bankers, or whatever it may be.

7 DR. JEANNERET: If you expressed a  
8 desire to go along with the sales I can assure  
9 you they would drop the selling price considerably.

10 THE WITNESS: I don't know how the  
11 laws work in this country -- and I would say that  
12 this is the case here -- but over the years we  
13 have known instances where a price was announced  
14 but it was pretty definite also that some other  
15 benefits were hidden from you, let us say.

16 THE CHAIRMAN: Mr. Lichtenberg,  
17 when did you first know of the sale of the assets  
18 of Upper Canada News Limited to the Molasky group?

19 THE WITNESS: That would  
20 be Belleville?

21 THE CHAIRMAN: Yes.

22 THE WITNESS: We have a common  
23 practice of using a town name. I believe that was  
24 back in February or March, somewhere around there,  
25 where we understood negotiations or at least  
26 sessions had been held.

27 THE CHAIRMAN: I see. Who told you  
28 about that transaction?

29 THE WITNESS: Again I can't tell you  
30 offhand whether it was direct from Mr. Colebourne or







1 Mr. Molasky to me or through Mr. Northorp.

2 THE CHAIRMAN: About that time  
3 or from January on, did you have any conversation  
4 with Mark Molasky in relation to his intention  
5 as president -- I understand he is president of  
6 Pierce News Company -- to expand their operation  
7 in Ontario?

8 THE WITNESS: No, I would say that  
9 several years ago Mr. Allan Molasky mentioned  
10 the fact that they were interested in buying  
11 wholesale agencies, they didn't say where, because  
12 it was at that time that there were a number of  
13 other movements, especially in the United States  
14 of A.R.A. and other wholesalers who were buying  
15 up other agencies. We treat each one as it comes  
16 along. We give no blanket approval to anyone.

17

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1 THE CHAIRMAN: You don't give  
2 a blanket approval?

3 You did hear in February or  
4 March about the acquisition of Belleville, correct?

5 THE WITNESS: Right.

6 THE CHAIRMAN: Then you must  
7 have heard about the acquisition of London  
8 and Sarnia about the time that the agreements  
9 were signed for Belleville's acquisition, is that  
10 right?

11 THE WITNESS: I don't know the  
12 dates of the signing, but we heard in ample  
13 time, so that I am sure both Mr. Halliley and  
14 Mr. Molasky knew that we would sell to Mr. Molasky  
15 in those instances.

16 THE CHAIRMAN: Did you know  
17 about the acquisition by the Molaskys of Sarnia  
18 and London on April the 21st? That is the  
19 time you heard about Kitchener.

20 THE WITNESS: I knew about it  
21 prior.

22 THE CHAIRMAN: You knew about  
23 it prior to that. When you did hear from  
24 Mr. Northorp and then you did hear from Mr.  
25 Hill on April the 21st, you have said on more  
26 than one occasion during the evidence that you  
27 did not know who the purchasers were, even  
28 when you concluded the conversation with Hill.  
29 Why is it that you didn't then contact Mr.  
30 O'Brien to ask him if he would put in TV Guide





1 into Kitchener?

2 THE WITNESS: Well ---

3 THE CHAIRMAN: He was at  
4 Hamilton and Brantford, much closer.

5 THE WITNESS: Well, I felt at  
6 the time that Metro News had the equipment, perhaps,  
7 and the manpower, to move in immediately, because  
8 we had been notified that this was taking place  
9 immediately, and it just seemed that in the  
10 immediacy of the situation that I requested  
11 perhaps, if Mr. Molasky got time, and said no,  
12 we would then cast about for someone else to  
13 see if they were interested in supplying the  
14 Kitchener area with our magazines. It could  
15 have been quite possible that, under those  
16 circumstances, we might very well have said  
17 no and he would have then hired manpower and trucks,  
18 et cetera, to complete the distribution. This  
19 is not the best by any means.

20 DR. JEANNERET: Not efficient?

21 THE WITNESS: No efficient.

22 DR. JEANNERET: You never  
23 considered Mr. O'Brien?

24 THE WITNESS: No. Mr. Molasky  
25 indicated sufficient interest and continued  
26 to take that interest, and as of such and such  
27 a date, practically the week after our copies  
28 were already in transit on the 21st or 22nd,  
29 so that, as soon as possible the transfer would  
30 be made.







1 THE CHAIRMAN: On April the  
2 21st, you had a conversation with Mr. Molasky,  
3 immediately after a conversation with Mr.  
4 Hill, right?

5 THE WITNESS: Right.

6 THE CHAIRMAN: Did you have  
7 any conversation with Mark Molasky after that,  
8 during that week?

9 THE WITNESS: I would say so.  
10 He was prepared and could -- not immediately,  
11 but with some degree of efficiency, make the  
12 initial distribution in the area.

13 THE CHAIRMAN: Did he tell you  
14 that he had made an offer to the Hills to  
15 acquire ---

16 THE WITNESS: I don't recall  
17 that.

18 THE CHAIRMAN: You don't recall  
19 that?

20 THE WITNESS: No. At that  
21 point I was interested in purely maintaining  
22 a distribution.

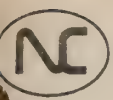
23 THE CHAIRMAN: Yes?

24 THE WITNESS: And as long as  
25 Mr. Molasky was competent on that, that was  
26 my sole interest. I heard testimony here  
27 last week that an offer was made.

28 THE CHAIRMAN: But he didn't  
29 tell you that?

30 THE WITNESS: No.





1 THE CHAIRMAN: I see. Did it,  
2 therefore, come as an assumption on his part  
3 that if he had made the acquisition, he would  
4 have had your consent or approval to it?

5 THE WITNESS: I would assume,  
6 since it was being sold, that our magazine --  
7 he would assume we would continue to do  
8 business with him in that area.

9 THE CHAIRMAN: Have you ever  
10 heard of a firm called Consensus Publishing  
11 Company?

12 THE WITNESS: I might have, but  
13 I couldn't recall it.

14 THE CHAIRMAN: You don't recall  
15 it?

16 THE WITNESS: No, I possibly  
17 could have.

18 THE CHAIRMAN: You might have  
19 heard of it at some time?

20 THE WITNESS: There are literally  
21 thousands of publishing companies.

22 THE CHAIRMAN: Yes. When did you  
23 last take similar action, similar to that which  
24 you took with the Kitchener situation, against  
25 the removal of a franchise in Canada, removal  
26 of the Kitchener franchise, when did you last  
27 do that in the United States?

28 THE WITNESS: In the United  
29 States?

30 THE CHAIRMAN: Yes.





1 THE WITNESS: I would say  
2 approximately in March, February or March of  
3 this year.

4 THE CHAIRMAN: Why?

5 THE WITNESS: Again it was a  
6 case of the buyer was unfamiliar to us and  
7 notified us after the fact, and we felt no  
8 responsibility to the seller, or either one.  
9 The same procedures I did here, I brought in.  
10 I used them before, as in other cases.

11 Calling on a new buyer  
12 or an adjacent wholesaler, and I had an option  
13 of two or three, but I called on one and it  
14 was purely a judgment. After that, he would  
15 immediately start to supply that area.

16 THE CHAIRMAN: So this was after  
17 the transaction had been completed?

18 THE WITNESS: It was completed  
19 and it was only again by a rumour that I heard  
20 of that action. Subsequently, after we took  
21 the action, we received information to inform  
22 us that this was an accomplished fact, as of  
23 a retroactive date. By that time, we had  
24 another distributor in the area.

25 THE CHAIRMAN: Which firm was  
26 this involved in that action?

27 THE WITNESS: This is a firm now  
28 called Tempo News Company now operating in  
29 Newark, New York. Another happened approximately  
30 a year ago in Atlantic City, New Jersey.







1        There were dual, or two distributors. One  
2        which was an exclusive distributor, as far  
3        as our magazines -- those were the only  
4        magazines he handled. He also handled at  
5        that time, which we owned at that time, the  
6        Philadelphia Enquirer, Philadelphia News,  
7        and the Philadelphia Morning Telegraph.  
8        That particular agency was not doing a proper  
9        sort of job in our judgment, so we ceased doing  
10       business with him only on the Triangle-published  
11       magazines and the Triangle-distributed magazines.

12                    THE CHAIRMAN: He was not  
13       doing a proper job?

14                    THE WITNESS: Yes. On the news  
15       basis, nobody worried about that job. That  
16       was it.

17                    THE CHAIRMAN: In the instance  
18       of Kitchener it was not relevant to you in  
19       making your decision as to who purchased that, that  
20       didn't matter to you at all?

21                    THE WITNESS: It was relevant,  
22       but I was not told who they were and it took  
23       a lot of questions to find out what was going  
24       on and at that time, or when we did confirm the  
25       rumour, it was obvious that the negotiations  
26       had been going on for a considerable period of  
27       time. I was surprised that the parties were  
28       not, two of whom were wholesalers, were familiar  
29       with the general practices of the business and  
30       one was a publisher and formerly a co-worker with me,





1       whom we have enjoyed a fine social relationship  
2       with over the years, who was a publisher and  
3       knew the common and accepted practices. I would  
4       not accept the fact that his lawyers or the  
5       excuse that his lawyers couldn't get the papers  
6       together in six weeks. It is a common  
7       practice of advising the supplier of an action  
8       that is contemplated.

9               THE CHAIRMAN: In any case,  
10       you told us that you made the decision during  
11       the conversation with Hill, without knowing  
12       who the purchasers were, that is what you told us.  
13       Is that correct?

14              THE WITNESS: That is right.

15              THE CHAIRMAN: You consider  
16       that is just, as you put it a few minutes ago,  
17       just action on your part?

18              THE WITNESS: I moved because  
19       he would not divulge who these purchasers were.

20              MR. CAMP: In advance. Well,  
21       I just want to explain to you, Mr. Lichtenberg,  
22       some of the problems I have at any rate, in  
23       understanding what has been said.

24              Mr. Holland asked Mr. Molasky --  
25       and I have said this before -- "Will you explain  
26       to us, if you can, the importance of having  
27       the distributing rights to TV Guide?" and Mr.  
28       Molasky said "There is very little importance,  
29       it is just another thing, it is just another  
30       magazine thrown on the truck". Is that your





1 understanding of an appropriate attitude by  
2 a wholesaler to your publication?

3 THE WITNESS: I don't believe ---

4 MR. SEDGWICK: Would you give  
5 me the page?

6 MR. CAMP: 2807. Do you  
7 think it would be your opinion that Mr. Molasky  
8 really believes your publication is just  
9 another magazine thrown on the truck?

10 THE WITNESS: No, I do not.

11 MR. CAMP: Why do you think  
12 Mr. Molasky would come to Canada as President  
13 of a substantial magazine wholesaling organization  
14 and say to the Commission in response to a  
15 question from Mr. Holland as to what the importance  
16 was of TV Guide, that there really wasn't any  
17 importance to it?

18 THE WITNESS: I have no idea  
19 of why he made that remark, Mr. Camp. I cannot  
20 answer for him.

21 MR. CAMP: I don't believe you  
22 could, could you?

23 THE WITNESS: No.

24 MR. CAMP: It is nowhere near  
25 the truth?

26 THE WITNESS: I know we are  
27 getting a sound and satisfactory job from Metro  
28 News and I am quite sure that he finds the  
29 magazine profitable.

30 MR. CAMP: You are satisfied with







1 your sales in Canada?

2  
3 THE WITNESS: We are never  
4 satisfied with our sales in any place. We are  
5 always looking for more sales.

6 MR. CAMP: You might do even  
7 better if you had some other wholesaler who  
8 did not feel it was just another magazine  
9 dumped on a truck. I only express this because  
10 I want to determine where the level of Canada  
11 is? There is nothing personal.

12 THE CHAIRMAN: Do you have  
13 any questions?

14 MR. HOLLAND: No, Mr. Chairman.

15  
16 CROSS-EXAMINATION BY MR. SEDGWICK:

17  
18 Q. Reverting to the last  
19 questions, what Mr. Molasky said, and I am  
20 looking at page 2888, he was asked by Mr.  
21 Camp ---

22 THE CHAIRMAN: Mr. Holland.

23 MR. SEDGWICK: It says Mr.  
24 Camp in the transcript. I am reading the  
25 transcript. Mr. Camp said to Mr. Molasky:

26 "Do you know any newsstand  
27 that would not carry TV Guide?"  
28 And Mr. Molasky said:

29 "No, none."

30 Mr. Camp said,





1 "So the fact is, TV Guide  
2 is probably far and away the  
3 most significant magazine handled  
4 by the newsstands?"

5 And Mr. Molasky said:

6 "In those terms, yes."

7 Mr. Camp said:

8 "In the terms of volume sales  
9 possibly it is to you, as well  
10 as the wholesalers, is it not?

11 "Yes."

12 And Mr. Camp said:

13 "It is not just a magazine  
14 dumped on a truck?"

15 And Mr. Molasky said:

16 "I think any magazine is another  
17 magazine dumped on a truck."

18 And then the Chairman said, at the bottom of the  
19 page:

20 "We happen to have some knowledge  
21 that TV Guide is probably the  
22 major periodical on the market  
23 and you are telling us it is not  
24 very important?"

25 "THE WITNESS: I said it is  
26 an important magazine. Every  
27 magazine has some importance."

28

29

30





1           "                           The Chairman: In terms of sale it is  
2   the most profitable?

3                           The Witness:       Yes."

4  
5       Would you agree with those answers that Mr. Molasky  
6       gave?

7                           A.           That it is the most  
8       profitable magazine?

9                           Q.           Yes.

10                          A.           I assume so since we sell  
11       nearly 10 million copies a week.

12                          MR. CAMP: But you see, Mr. Lichtenberg,  
13       just being another Canadian and hearing the answer,  
14       "What is the importance of having the wholesale  
15       rights to TV Guide" and the answer to him,  
16       "The Witness: It is really of no importance, it  
17       is like any other magazine, it is just another  
18       magazine thrown onto a truck" ...

19                          ...           if I didn't know any better I never  
20       would know any better. I never would know any better.  
21       If I didn't know the facts and continued to press  
22       for facts that would have been my understanding  
23       of the importance of TV Guide.

24                          THE WITNESS: I appreciate the  
25       fact that you did press for the facts.

26                          MR. CAMP: I should be an accomplice.

27                          MR. SEDGWICK: Q. Mr. Lichtenberg,  
28       I want to refer to one matter only and that is the  
29       conversation which you had with Mr. Hill Senior  
30       on the 21st of April and that was when Mr. Hill







1 called you and said that they had sold the control  
2 of Kitchener News and he asked for your ex-  
3 post facto benediction, do you remember that  
4 conversation?

5 A. I remember it only in part  
6 because I expressed myself in several areas.

7 Q. Did Mr. Hill, in the  
8 course of that conversation, reveal to you the  
9 names of the purchasers of Kitchener News?

10 A. I don't believe so.

11 Q. In giving evidence here --  
12 you were not here yesterday, Mr. Lichtenberg?

13 A. No, I was not.

14 Q. In giving evidence here  
15 yesterday Mr. Hill was asked these questions --  
16 and I am looking at page 3238, a question by  
17 Mr. Holland:

18 " Q. Did he --"

19  
20 That was you.

21 "  
22 -- give any reason to you  
23 for his concern over this  
24 sale?

25 A. Yes, his first reason  
26 was Mr. Terry Cosgrove,  
27 former manager of Metro.

28 Q. What objection, if any, did he  
29 have to Mr. Cosgrove?

30 A. He said he had done a lousy





1                   "  
2                   job in Toronti, at which  
3                   time I said that you could not  
4                   blame the person or the area.  
5                   It is possibly instructions  
6                   from higher-ups, and he was  
7                   taking his directions. He said  
8                   that he did not like the  
9                   thoughts of Gerdon & Gotch  
10                  and other distributors,  
11                  another national distributor  
12                  being in it, and also, I  
13                  had not sought his per-  
14                  mission for the sale, for the  
15                  TV Guide franchise.

15                   Q.           At that time did he tell you  
16                   whether or not Kitchener  
17                   News Company Limited would  
18                   be cut off distribution  
19                   rights for TV Guide?

20                   A.           Not at that time."

21                  Now, did that conversation take place on the 21st  
22                  of April?

23                   A.           I would not question  
24                   the facts of that. I expressed myself at that  
25                   time that I did not think Mr. Cosgrove did an  
26                   efficient job in our behalf in Metro News,  
27                   and also did not, I expressed myself and my point --  
28                   I don't know if it was to Mr. Hill -- I expressed  
29                   that I may have known through rumour again from  
30                   the parties involved, that I did not believe that





1 we would be interested in having a party such as  
2 Mr. Smith and Gordon & Gotch who held wholly a  
3 minority interest and profits accruing from that  
4 interest as a party to Kitchener News.

5 Q. And when did Triangle make  
6 its decision not to sell TV Guide to the new  
7 owners?

8 A. At that time.

9 Q. On that day?

10 A. Right.

11 Q. The 21st?

12 A. I told Mr. Hill that we  
13 would not sell the magazines that we published  
14 as publishers and the magazines that we distributed  
15 to the purchasers of Kitchener News.

16 Q. I see, and it was on that  
17 same day that you, of your own volition, approached  
18 Mr. Mark Molasky asking if he would take over the  
19 distribution in that area?

20 A. Right.

21 MR. SEDGWICK: That is all,  
22 thank you.

23 THE CHAIRMAN: That has been  
24 very helpful, Mr. Sedgwick. So you did know at  
25 that time?

26 THE WITNESS: By rumour.

27 THE CHAIRMAN: The fact is you  
28 did know and you did have conversations, you have  
29 just agreed with Mr. Sedgwick, at this time you  
30 knew?







1 THE WITNESS: I must have known  
2 if I said that at that time.

3 THE CHAIRMAN: So, your evidence  
4 now is substantially different from what you have  
5 been telling us. You told us you didn't know who  
6 they were and now you are telling us that you did.

7 THE WITNESS: Well, I thought it was  
8 rumour, I didn't know whether it was a fact or not.

9 THE CHAIRMAN: Well, you certainly  
10 did in this instance, you raised it with Mr. Hill  
11 and used names. That is what he said.

12 THE WITNESS: Now that my memory has  
13 been refreshed I will agree with that. I kept  
14 no notes of my conversation, Mr. Chairman.

15  
16 RE-EXAMINED BY MR. HOLLAND:

17 Q. Just on that point I  
18 understood you to say to the Chairman just before  
19 Mr. Sedgwick's examination that you asked  
20 Mr. Hill and he refused to give you the names of  
21 the purchasers?

22 A. That is possible.

23 MR. HOLLAND: That is all.

24 THE WITNESS: I don't remember what  
25 I had for breakfast this morning.

26 THE CHAIRMAN: We will now adjourn  
27 until 2.15 p.m. We will resume between 2.15 and  
28 2.30 p.m.

29 ---Luncheon adjournment.  
30





1 ---The hearing resumed at 2.20 p.m.

2  
3 THE CHAIRMAN: We may as well proceed,  
4 Mr. Holland.

5 MR. HOLLAND: Yes.

6 Mr. Chairman, following the  
7 adjournment this morning some of the gentlemen from  
8 the press approached me -- and I think also  
9 Mr. Sedgwick, or in any event in the presence of  
10 Mr. Sedgwick -- and asked that Exhibit No. 37,  
11 which was the newspaper article from the New York  
12 Times be released. I am concerned as counsel to  
13 the Commission that this article will be unduly  
14 emphasized. The article, you will remember, was  
15 put to Mr. Lichtenberg in an effort to refresh  
16 his memory concerning any common business interests  
17 between Mr. Annenberg on the one side and  
18 Mr. Molasky of Pierce News Company on the other.

19 The article itself dealt with the  
20 conviction for income tax evasion in connection  
21 with a certain company with which apparently  
22 Mr. Annenberg and Mr. Molasky were associated.

23 In order that there be no mystery  
24 about the matter, it is my suggestion to the  
25 Commission that this exhibit be released to the  
26 press, if they so desire. I am sure Mr. Sedgwick  
27 may have something to say about it but again in all  
28 sincerity I suggest to the gentlemen of the press  
29 that this small matter not be emphasized unduly.

30 THE CHAIRMAN: Mr. Sedgwick, do you





1 have any comments?

2 MR. SEDGWICK: I did not think that  
3 the New York Times article had become an exhibit.  
4 I thought it was only filed for identification.  
5 Having been filed as an exhibit it is now part  
6 of the proceedings and if my consent is asked for  
7 I have no authority to give it. The whole thing  
8 is reported in today's press. I suppose we are  
9 arguing academically. "The Commission uses  
10 'Smears in Book Probe'".

11 MR. CAMP: I am in the process of  
12 changing my mind.

13 MR. SEDGWICK:

14 " Holland introduced a 31-year old tax  
15 evasion conviction and 'race betting  
16 charge' against two Americans whose  
17 descendants now run Triangle  
18 Publications and Pierce News  
19 Company."

20 So it is all in the press.

21 " The Commission Counsel said  
22 his grandfather W.M. Molasky and  
23 the late A.M. Annenberg, whose son  
24 is now United States Ambassador to  
25 Britain, had been convicted in 1940  
26 of conspiring to evade more than  
27 \$77,000 in income tax."

28  
29 THE CHAIRMAN: Well, gentlemen, I  
30 think I can speak for my colleagues. As I see it,







1 it is our opinion that as this is a matter of record  
2 now, that Exhibit 37 is a matter of record in these  
3 proceedings, and furthermore it is apparent to us  
4 it is a matter of record also in someone's files  
5 somewhere as a public document in any event.

6 It is a copy of what appears to be a sheet from  
7 the New York Times of 1940. So we will, naturally  
8 as it is an exhibit, release it to the press.

9 There is no secret or mystery.

10 The reason, of course, that we are  
11 interested in the document is that it does show  
12 that we are concerned with the possibility of  
13 an association, at least in the past, between two  
14 families and this was the purpose of our interest.  
15 We have no concern, however, with any charges in  
16 the past or any conviction or anything of this kind.  
17 Unfortunately, the two things were related in  
18 the news item which has been brought to our attention  
19 but under the circumstances, on the basis of everything  
20 we have heard so far, we are, of course, concerned --  
21 true it seems to be to some extent evading us from  
22 time to time -- but we are concerned with whether or  
23 not under the existing circumstances whether  
24 there is, in fact, a continuing relationship between  
25 these two families in a business sense or in any  
26 other way.

27 That was the reason this was of interest  
28 to us but in no other form of interest to us.

29 MR. CAMP: I have not seen the  
30 excitement in today's press, but I would like to re-





1 affirm your statement. I never knew Mr. William Molasky.  
2 I have been a member of the Commission which  
3 examined Mark Molasky under oath and it was the  
4 purpose of the Commission to do nothing other than  
5 to examine the possibility of there being some  
6 association between Triangle Publications and  
7 its various operations and Pierce News. If there  
8 were such an association it would seem to me to be,  
9 in the circumstances in which the Commission  
10 is using it, at the present time to be pertinent  
11 and it was of some interest to me that there  
12 was evidence that there had been a previous  
13 association and there was other information that  
14 seemed to be corroborative of an association  
15 which could be termed as being a close one. But in  
16 no way did I consider it relevant and I would not  
17 want to stress the point of being any more evidence  
18 than what is already before the Commission other  
19 than the fact of an association in the past.

20 On the other hand, the information  
21 when the exhibit was produced precluded it from  
22 being used in any other way. It speaks for itself  
23 and I do agree with the Chairman in his position  
24 wholeheartedly and I do also agree that there is  
25 no privilege attached to this document. It is a  
26 matter of public record and I have no wish to  
27 restrain the press from whatever circulation they  
28 want to give to it other than to express the personal  
29 opinion that it is highly irrelevant as to the judicial  
30 proceedings which flowed from the association.







1                   Furthermore, I don't think it is  
2                   prejudiced in any way. It certainly is not  
3                   prejudicial in my mind, in any way.

4                   DR. JEANNERET: I share the view  
5                   of the Chairman and my fellow Commissioner,  
6                   in respect to this thing. In the repeated  
7                   efforts of counsel to establish any kind of  
8                   personal connection between the Molasky-Annenberg  
9                   interests, they have been successful, and I would  
10                  consider the tendering of that evidence as having  
11                  been completely superfluous. I am quite willing  
12                  to accept the fact that Mr. Mark Molasky was  
13                  not aware of these connections. We have not  
14                  been privileged to talk to Mr. Allan Molasky,  
15                  who might know of the connection. Even though  
16                  a connection is established, nothing automatically  
17                  flows from it, but it is certainly relevant to  
18                  the issue related to Triangle's operations or  
19                  chain of operations in the Kitchener area, to  
20                  know whether or not any connection existed between  
21                  the two companies, and in the end, that evidence  
22                  was apparently brought in to establish that  
23                  connection, and for the further purpose -- that  
24                  I personally would abhor -- nobody is on trial  
25                  and there is no intention here to discredit,  
26                  to cast doubt on the credibility of any witnesses.  
27                  That is not the purpose of that evidence, and  
28                  we are not accepting it as such.

29                  THE CHAIRMAN: Mr. Holland?

30                  MR. HOLLAND: Thank you, Mr.







1 Chairman. If I may call the next witness,  
2 Richard Northorp.

3  
4 RICHARD NORTHORP, sworn

5  
6 EXAMINATION BY MR. HOLLAND:

7  
8 Q. You reside in Toronto, I  
9 believe?

10 A. Richmond Hill.

11 Q. You are a Canadian citizen?

12 A. I am.

13 Q. What is your present position?

14 A. Assistant circulation manager  
15 of Triangle Circulation Company, Canadian  
16 Division.manager.

17 Q. You are, then, in charge  
18 of the Canadian area of Canada for Triangle, if  
19 you can put it that way?

20 A. Circulation, yes.

21 Q. We have heard evidence  
22 about a sale of shares of Kitchener News Company  
23 Limited. When did you first become aware  
24 of this sale?

25 A. I believe it was on the  
26 forenoon of April the 21st, or April the 22nd?

27 Q. How did you learn of the  
28 sale?

29 A. One of my circulation field  
30 managers, Mr. Bert Squire.





1 Q. What area does he cover?

2 A. He covers Toronto, Hamilton,  
3 St.Catharines, Brantford, Peterborough, Belleville.

4 Q. Did he cover Kitchener?

5 A. He does at this time.  
6 He didn't at that time.

7 Q. Did he tell you where he  
8 had heard the news?

9 A. I don't really recall. I  
10 think it was through the usual rumour mill.

11 Q. When you heard this news,  
12 did you find out who the purchasers were?

13 A. I called Mr. Harold Hill  
14 to confirm the rumour.

15 Q. Then your man, Mr. Squire,  
16 told you that Mr. Hill had sold out his interest?

17 A. That is right.

18 Q. Did he tell you who had  
19 purchased it?

20 A. He mentioned the name,  
21 Mr. Bill Swindon, and Gordon and Gotch Publishing.  
22 Mr. Swindon is the former owner of Metro Toronto  
23 News.

24 Q. He mentioned Gordon and Gotch?

25 A. Right.

26 Q. Did he mention any other names?

27 A. No. He was not aware of  
28 the other people involved.

29 Q. Then you telephoned Mr.  
30 Hill?





1 A. That is right.

2 Q. What did you say to him?

3 A. I asked Mr. Hill if it were  
4 true that Gordon and Gotch Publishing Company  
5 and/or Mr. Bill Swindon, had purchased his  
6 agency. He said the latter -- he indicated to  
7 me Gordon and Gotch were involved and Mr.  
8 Bill Swindon was also involved.

9 Q. Did you ask him who else  
10 was involved?

11 A. I did.

12 Q. Did he give you the names?

13 A. As I recall he gave me the  
14 name of Mr. Fred O'Brien.

15 Q. Did he give you any other  
16 names?

17 A. Not that I can recall.

18 Q. Did he refuse to give you  
19 the other names?

20 A. I didn't push him.

21 Q. He just said one of the  
22 other purchasers was Mr. Fred O'Brien?

23 A. Yes.

24 Q. You knew Mr. Fred O'Brien?

25 A. Yes.

26 Q. What did you do after this  
27 call to Mr. Hill?

28 A. I called Mr. Lichtenberg, and  
29 told him I had been talking to Mr. Hill, and he  
30 had told me -- I called him to confirm the rumour







1 and at that time I said to Mr. Lichtenberg,  
2 "There is some confusion as to who the owners  
3 are. Bill Swindon is now involved in it and  
4 Gordon and Gotch are." He said "Phone Hill  
5 and ask him to call me". I phoned him and  
6 said Mr. Lichtenberg would like to speak to him  
7 and would he call him back.

8 THE CHAIRMAN: I take it  
9 these telephone calls followed, one upon the  
10 other, as soon as you were talking to Hill, you  
11 were talking to Mr. Lichtenberg?

12 THE WITNESS: Within a 10 or  
13 15-minute period. When I was talking to Mr.  
14 Lichtenberg, I had trouble getting through, because  
15 he was a busy man.

16 THE CHAIRMAN: You were talking to  
17 Mr. Hill and he told you all this?

18 THE WITNESS: Yes.

19 THE CHAIRMAN: I daresay you  
20 passed that information on, then, to Mr. Lichtenberg  
21 as well?

22 THE WITNESS: I don't think I  
23 did because, I said, there was some confusion  
24 as to who was the new ownership and he said,  
25 "Have Mr. Hill call me".

26 THE CHAIRMAN: You don't know  
27 whether you told him or not?

28 THE WITNESS: I would say I  
29 probably didn't. In this business, Mr. Lichtenberg  
30 likes first-hand information and I was not about





1 to spread rumours to him.

2 THE CHAIRMAN: Was this a rumour,  
3 you just got it from Hill, that O'Brien was  
4 involved?

5 THE WITNESS: Right. O'Brien  
6 was involved. I felt it would be better if  
7 Mr. Lichtenberg got it first-hand.

8 MR. HOLLAND: Q. You are saying  
9 that you did not give Mr. Lichtenberg the names  
10 or the possible names of the purchasers?

11 A. I would say no.

12 Q. You told him there was some  
13 confusion about who were the purchasers?

14 A. Yes.

15 Q. And then he told you to get  
16 Mr. Hill to phone him and you immediately  
17 telephoned Mr. Hill and relayed this request?

18 A. That is correct.

19 MR. CAMP: As I understand,  
20 you said you called to Mr. Lichtenberg and said  
21 "There is some confusion about who the purchasers  
22 are"?

23 THE WITNESS: That is right.

24 MR. CAMP: You didn't mention  
25 any names. You just said there was some confusion?

26 THE WITNESS: That is right.

27 MR. CAMP: He didn't ask you?

28 THE CHAIRMAN: You said on the  
29 record, "I said that Swindon is involved and  
30 Gordon and Gotch".





1 THE WITNESS: I said there was  
2 some confusion as to who the others were.

3 MR. HOLLAND: Q. I thought you  
4 said five minutes ago that you told the names?

5 A. It is possible.

6 DR. JEANNERET: I was under the  
7 impression, in this first phone call to Mr.  
8 Hill, you intimated there was some question as  
9 to whether or not the sale had really  
10 included Triangle Publications, and for this  
11 reason -- that is not so?

12 THE WITNESS: Not at first,  
13 no.

14 MR. HOLLAND: Q. Following this  
15 telephone conversation with Mr. Hill, that  
16 was the second one when you asked him to call  
17 Mr. Lichtenberg, did you have any further  
18 conversation with Mr. Hill in the next week?

19 A. I had a conversation with  
20 Mr. Cosgrove the same day.

21 Q. First, will you answer my  
22 question? Did you speak to Mr. Hill again?

23 A. Yes, I believe I did.  
24 Mr. Hill called me three or four days later  
25 and said that I could help him make the sale  
26 go through, if I were so disposed.

27 Q. What did you say to him?

28 A. That is entirely the prerogative  
29 of Mr. Lichtenberg, who is the circulation  
30 director, and sets policy for our company.







1 Q. Then you said that you had  
2 a conversation with Mr. Cosgrove the next day?

3 A. No, the same day I had a  
4 conversation.

5 Q. By telephone?

6 A. Yes, Mr. Cosgrove called me  
7 and he said that he had purchased Kitchener News  
8 along with some other people.

9 Q. Did he give you the names?

10 A. Yes, he did. He said that --  
11 I said "Terry, I think there is going to be some  
12 problems because Mr. Lichtenberg is annoyed that  
13 he was not contacted prior to the sale." I said,  
14 "I have always been a personal friend of yours  
15 and a really good friend over the years".

16 Q. You told Mr. Cosgrove that  
17 Lichtenberg was annoyed about the sale?

18 A. Yes.

19 Q. Did Lichtenberg say this to  
20 you when you phoned?

21 A. I could tell by the tone of  
22 his voice.

23 Q. This was by long distance  
24 telephone to Pennsylvania?

25 A. Right.

26 Q. Exactly what did Mr. Lichtenberg  
27 say when you telephoned?

28 A. He said, I think, precisely,  
29 "Have Harold Hill call me".

30 Q. That was all he said?





1 A. It may not be all he said,  
2 but that's all I recall.

3 Q. You could tell by the tone  
4 of his voice that he was annoyed?

5 A. Right.

6 Q. Did you speak again to Mr.  
7 Lichtenberg that same day?

8 A. Well ---

9 MR. CAMP: One second. Do I  
10 understand you to say that when you phoned  
11 Mr. Lichtenberg, he said "Have Mr. Hill call  
12 me"?

13 THE WITNESS: Right.

14 MR. CAMP: And you got the  
15 impression from that that he was not happy about  
16 the sale?

17 THE WITNESS: I did.

18 MR. CAMP: Did he indicate to  
19 you at that time that there might be, then, a  
20 change, in regard to the TV Guide franchise issue?

21 THE WITNESS: I would say no.

22 MR. CAMP: When you ---

23 THE WITNESS: At this stage,  
24 you know, it was still a rumour.

25 MR. CAMP: You are talking to  
26 number one now, and he is not interested in  
27 rumours. When you phoned Mr. Hill to ask him  
28 to call Mr. Lichtenberg, did you indicate to  
29 him that Mr. Lichtenberg had suggested that the  
30 franchise was going to move?





1 THE WITNESS: I don't recall.

2 I know I told Mr. Hill that Mr. Lichtenberg was  
3 annoyed.

4 THE CHAIRMAN: I think we should  
5 be satisfied on the record that the matter had  
6 been moved, on your evidence, out of the rumour  
7 stage and it was a confirmed fact, because you  
8 talked to Mr. Hill. Let us not say that it was  
9 still in the rumour stage.

10 THE WITNESS: As far as the  
11 owners were concerned.

12 MR. CAMP: By the time you talked  
13 to Mr. Hill you knew it was going to be a fact,  
14 and you also knew it was a fact that Mr. Lichtenberg  
15 was displeased?

16 THE WITNESS: Right.

17 MR. CAMP: You were here yesterday?

18 THE WITNESS: Yes.

19 MR. CAMP: And you heard Mr.  
20 Hill say that you told him there was a possibility  
21 that TV Guide would not go with the deal?

22 THE WITNESS: If I did, I don't  
23 recall.

24 MR. CAMP: It doesn't make  
25 any difference to you whether or not you said this?  
26 Do you recall Mr. Lichtenberg saying that to you?

27 THE WITNESS: Do I recall Mr.  
28 Lichtenberg saying?

29 MR. CAMP: Do you recall him  
30 saying this to you?







1 THE WITNESS: No.

2 THE CHAIRMAN: Dr. Jeanneret has  
3 turned to page 3236 of the evidence. I wonder,  
4 counsel, if you would draw that evidence of  
5 Mr. Hill to Mr. Northorp's attention and ask  
6 him in connection with it, at this stage?

7 MR. HOLLAND: Q. Perhaps if I  
8 may start at page 3235, line 20:

9 "Q. Then, (this is Mr. Hill)  
10 following the closing of the  
11 transaction on April 21st, did  
12 you have a telephone conversation  
13 with Mr. Northorp of Triangle  
14 Publications?

15 "A. I did.

16 "Q. And who is Mr. Northorp?  
17 What is his position?

18 "A. Mr. Northorp is the  
19 Canadian sales representative  
20 for Triangle."

21 "Q. And what did Mr. Northorp  
22 have to say to you?

23 "THE CHAIRMAN: Mr. Northorp  
24 of what firm?

25 "MR. HOLLAND: Of Triangle  
26 Publications.'

27

28

29

30





1               "

2                               Q.   What did Mr. Northorp  
3                               have to say to you?

4                               A.   Well, he phoned to  
5                               verify as to whether Kitchener had  
6                               been sold, which I told him had  
7                               happened.

8                               Q.   And what else did he  
9                               have to say?

10                              A.   When he received the  
11                              information that it had been he  
12                              instructed me to phone Mr. Lichtenberg  
13                              in Radnor, Pennsylvania.

14                              Q.   Who is Mr. Lichtenberg?

15                              A.   He is the circulation  
16                              manager for TV Guide.

17                              Q.   Then did you telephone  
18                              Mr. Lichtenberg?

19                              A.   Well, at that time  
20                              Mr. Northorp also told me that  
21                              Mr. Lichtenberg was not too happy with  
22                              the sale of the company if it had been  
23                              sold and that there was a good  
24                              possibility that the TV Guide would  
25                              not go to the new distributor.

26                              The Chairman: By saying that  
27                              did you understand that Mr. Lichtenberg  
28                              knew about it?

29                              The Witness: I would say so,  
30                              yes."





1 Now, were you present when that  
2 evidence was given?

3 A. Yes, I was.

4 Q. Do you agree with it or  
5 disagree with it?

6 A. I agree with most of it  
7 except for the latter part. I don't have a copy of  
8 that in front of me.

9 MR. CAMP: But say most of it, that  
10 is about 50 per cent of it, in fact, I would say that  
11 is the guts of it.

12 THE WITNESS: The part I would say  
13 I cannot recall or do not agree with is the part  
14 "There is a good possibility that TV Guide would not  
15 go to the new distributor."

16 MR. HOLLAND: Q. You have told us  
17 about the one telephone conversation with  
18 Mr. Lichtenberg that day. Did you have any further  
19 telephone conversations that day?

20 A. I did not.

21 Q. Did you have a telephone  
22 conversation with him in the next week or any  
23 communication with him in the next week?

24 A. Not for three weeks.

25 Q. What happened after three  
26 weeks?

27 A. Mr. Lichtenberg was away on  
28 vacation in Europe, I believe, in the south of  
29 France. During the course of this time I was in  
30 constant communication with Mr. Hugh Crocker,







1 Mr. Lichtenberg's assistant.

2 Q. Did you have a telephone  
3 conversation then with Mr. Crocker on or about  
4 April 21st?

5 A. I did.

6 Q. What was said?

7 A. Mr. Crocker told me that it  
8 was a corporate decision that the new owners of  
9 Kitchener News Company would not be sold Triangle  
10 Publications.

11 Q. Did he indicate to you that  
12 he knew who the new owners were at the time?

13 A. Yes, he did.

14 Q. And did he tell you who the  
15 new wholesaler would be to handle the Triangle  
16 Publications in the Kitchener area?

17 A. Yes, he said that I was to make  
18 arrangements for Metro Toronto News to make  
19 deliveries in that area.

20 Q. When did he phone you with  
21 relation to your telephone call with Mr. Lichtenberg?

22 A. It was the following day.

23 Q. This would be April 22nd?

24 A. Or 23rd, I am not quite sure.

25 Q. Had you had any communication  
26 in the meantime with Mr. Melasky or anyone at  
27 Metro News Company?

28 A. Yes, I did.

29 Q. When was that?

30 A. I spoke to several people at





1 Metro Toronto News during that time.

2 Q. But about the Kitchener  
3 distribution for Triangle Publications?

4 A. I am just trying to think -- not  
5 that I can recall on the 22nd. The following day,  
6 I did.

7 Q. And what did you do the  
8 following day, which would be the 23rd?

9 A. I spoke to, I believe it was  
10 Mr. McMonigle or Mr. Romanez.

11 Q. At Metro News Company?

12 A. Right.

13 Q. And what conversation did  
14 you have with him?

15 A. I told him that we were mapping  
16 out the dealers in the four towns concerned,  
17 that we were setting the allotments for the  
18 dealers, that we would have three of our men on the  
19 trucks to acquaint the drivers with the dealers in  
20 the Kitchener area and that we would handle all the  
21 preliminary work up to the delivery of the TV Guide  
22 and we would assist in the delivery.

23 Q. Now, when you spoke to  
24 Mr. McMonigle or Mr. Romanez, did they know at that  
25 time or appear to know that they were going to  
26 distribute TV Guide in the Kitchener area?

27 A. I am not sure.

28 Q. Why not?

29 A. I would say that I don't know,  
30 really.





1 Q. Did they seem surprised?

2 A. I don't think they were overly  
3 surprised.

4 Q. You don't think they were  
5 overly surprised. Because if they had not known  
6 about it, surely they would have expressed surprise  
7 when you were directing them to go into a completely  
8 new area?

9 A. I would think so.

10 Q. And they were not surprised?

11 A. I would say probably not.

12 Q. So, obviously they had already  
13 heard of it?

14 A. Could probably.

15 Q. Didn't it seem that way to you?

16 A. I had no first-hand knowledge  
17 of it.

18 Q. Didn't it seem to you that  
19 they already knew about it?

20 A. I have no idea.

21 Q. No idea?

22 A. No.

23 Q. And then the arrangements  
24 were subsequently made for the distribution of the  
25 TV Guide by Metro News in the Kitchener area?

26 A. That is right.

27 MR. HOLLAND: I have no further  
28 questions of this witness, Mr. Chairman.

29 MR. CAMP: Mr. Northorp, were you  
30 surprised?







1 THE WITNESS: Was I surprised?

2 MR. CAMP: That the TV Guide franchise--  
3 you and I don't have any trouble with that word --  
4 went from Kitchener?

5 THE WITNESS: No, I was very surprised  
6 that Harold Hill did not have the -- with our long  
7 association with Harold Hill, I was very surprised  
8 that he did not think it necessary to call us and  
9 alert us of an impending sale.

10 MR. CAMP: Were you aware of the  
11 growth of the Metro News Company in Ontario?

12 THE WITNESS: I was and am.

13 MR. CAMP: Were you aware that they  
14 had further ambitions in that regard?

15 THE WITNESS: I was and I am.

16 MR. CAMP: Were you aware that they  
17 had designs on Kitchener?

18 THE WITNESS: No, I was not.

19 MR. CAMP: Where did you think their  
20 interests would take them?

21 THE WITNESS: Well, at this point I  
22 knew that their interests were in the Belleville  
23 area -- Belleville-Peterborough and I knew that  
24 there was the purchase of an agency in the state  
25 of being closed. I had been working in that area  
26 taking off figures.

27 MR. CAMP: The long and short of it  
28 though was that you were surprised and you answered the  
29 question in a way that I don't think I asked it which  
30 is to say, were you surprised when you realized that





1 TV Guide was now going to be distributed in Kitchener  
2 out of Toronto by the Metro Toronto News Company?

3 THE WITNESS: I would say that on  
4 both counts I would be surprised.

5 MR. CAMP: Okay. Because, as a  
6 matter of fact, the situation in Kitchener was a  
7 satisfactory one.

8 THE WITNESS: I would say it was one  
9 of the better operations.

10 MR. CAMP: Doing business with  
11 Mr. Hill was a pleasure?

12 THE WITNESS: I had more difficulty with  
13 Mr. Hill over the last five years than with anyone  
14 other than Metro News.

15 MR. CAMP: You had more difficulty  
16 with Metro than you had with Kitchener?

17 THE WITNESS: Yes, right, under the  
18 old management.

19 MR. CAMP: So, you were going from  
20 the frying pan into the fire, so to speak?

21 THE WITNESS: Not necessarily because  
22 the Metro Toronto News Agency in the last six months  
23 so far as Triangle circulation is concerned has  
24 improved tremendously.

25 MR. CAMP: In what way has it improved?  
26 Has your TV Guide circulation improved substantially?

27 THE WITNESS: Yes, the circulation  
28 has gone up a bit. Well, we are right now in a  
29 declining market, summer sales, but during, I would  
30 say, March and April, we came very close to an all-time







1 high.

2 MR. CAMP: Very close to an all-time  
3 high?

4 THE WITNESS: Right. Our delivery  
5 became more efficient.

6 MR. CAMP: What does that mean?  
7 I am looking for information.

8 THE WITNESS: Well, our delivery to  
9 the retailers. My concern is with the retailers,  
10 doing the best possible job for the retailers.

11 MR. CAMP: How did it improve?

12 THE WITNESS: Well, during the  
13 previous administration we had a delivery spreading  
14 over from Tuesday until Friday.

15 MR. CAMP: We were told by the  
16 president that it was all done on Tuesday and  
17 Wednesday.

18 THE WITNESS: Sometimes the  
19 president doesn't know what goes on down below.  
20 The thing is in one instance for three weeks in a  
21 row there were over 5,500 copies not even delivered.

22 MR. CAMP: When was that?

23 THE WITNESS: Well, it was a year  
24 ago last winter, strictly through management error.

25 MR. CAMP: A year ago last winter?

26 DR. JEANNERET: It is the sales that  
27 stick that are your real criteria in the service?

28 THE WITNESS: Yes, my philosophy is  
29 that we take care of the retailer and the retailer  
30 will take care of the sales and there will be no







1 problem.

2 MR. CAMP: Did you understand  
3 the company policy with regard to the sales of  
4 wholesaler operations?

5 THE WITNESS: Absolutely.

6 MR. CAMP: It was said this morning  
7 by Mr. Lichtenberg that in some instances you were  
8 the first to know?

9 THE WITNESS: That is correct.

10 MR. CAMP: Could you give us an  
11 example? Were you the first to know about London?

12 THE WITNESS: Most probably.

13 MR. CAMP: I am not really happy  
14 with that answer.

15 THE CHAIRMAN: I don't think any  
16 of us are. See if you can think of a better one.

17 THE WITNESS: I would think from  
18 my knowledge, yes.

19 MR. CAMP: Well, from your knowledge,  
20 before the sale of the London territory, who was  
21 it that gave you the information?

22 THE WITNESS: Who gave me the  
23 information?

24 MR. CAMP: Yes.

25 THE WITNESS: On the sale of London?  
26 Mr. John Romanez.

27 MR. CAMP: And who is he?

28 THE WITNESS: He is the general manager  
29 of Metro Toronto News.

30 MR. CAMP: When did Mr. Romanez inform





1 you about London, how long before the sale, do you  
2 remember?

3 THE WITNESS: Let us see, I would say  
4 some time during, I think it was about the middle  
5 of April.

6 MR. CAMP: In the middle of April.  
7 You were not made aware of this by the vendor?

8 THE WITNESS: By Mr. Halliley?

9 MR. CAMP: Yes.

10 THE WITNESS: I don't believe so.

11 MR. CAMP: Just so we can understand  
12 how these things work, did Mr. Romanez call you  
13 and say, "We are going to buy London"?

14 THE WITNESS: I believe at the time  
15 he asked me.

16 MR. CAMP: May I ask you what he  
17 asked you?

18 THE WITNESS: Well, he told me at that  
19 time that they were contemplating the purchase of  
20 London and Sarnia and TV News Sales Company which is  
21 a company that distributes TV Guide to merchants  
22 in Western Ontario, and he told me, I believe --  
23 now, I am not sure of this but I think he told me  
24 they were going to amalgamate the three into one  
25 company if they were successful in purchasing them.

26 At that time we were also in the  
27 process of sorting things out from the sales end  
28 and that sort of thing.

29 MR. CAMP: At that time, though,  
30 did he tell you that as a matter of fact there was





1 an agreement of sale?

2 THE WITNESS: No.

3 MR. CAMP: So, as far as you know,  
4 it could have been before they produced an agreement  
5 of sale?

6 THE WITNESS: I have no idea.

7 MR. CAMP: What he was really telling  
8 you was -- I don't know, was he telling you about  
9 the aspirations of the company?

10 THE WITNESS: Yes, he told me. We  
11 had many discussions as I had with Mr. Cosgrove,  
12 we have lunch periodically. I was in his office.  
13 I have also had him in my office.

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1 MR. CAMP: That is a businessman's  
2 lunch?

3 THE WITNESS: Right.

4 MR. CAMP: As a result of having  
5 that information, you could not, yourself, speak  
6 for the company as to whether or not the company  
7 would go along?

8 THE WITNESS: I don't speak for  
9 the company. I don't dictate policy.

10 MR. CAMP: I understand. It is  
11 the home office?

12 THE WITNESS: Yes.

13 MR. CAMP: As a result of that,  
14 what did you then do?

15 THE WITNESS: Concerning London?  
16 I think I informed Mr. Hugh Crocker, who I report  
17 directly to.

18 MR. CAMP: Mr. Crocker?

19 THE WITNESS: Yes.

20 MR. CAMP: As a result of speaking  
21 to Mr. Crocker, how did you then know whether or  
22 not approval had been given?

23 THE WITNESS: I didn't know.  
24 Actually, it is none of my business. I perform  
25 the operations after the policy has been made.

26 MR. CAMP: How did your buyer  
27 know that the deal had been put through?

28 THE WITNESS: I imagine it is  
29 communicated between the owners and principals,  
30 or whatever. I am not part of that. I am not





1 part of that policy.

2 MR. CAMP: You are just sort of  
3 a rumour factory? (Laughter)

4 THE WITNESS: That is a nasty  
5 thing to say.

6 MR. CAMP: You spread this word  
7 but you don't really know?

8 THE WITNESS: I do sometimes.

9 MR. CAMP: I am merely trying  
10 to find out ---

11 THE WITNESS: I do take exception  
12 to your remark.

13 MR. CAMP: I withdraw it entirely.  
14 I didn't mean to say anything you should take  
15 exception to.

16 THE WITNESS: I accept your  
17 apology.

18 MR. CAMP: As a matter of fact,  
19 you might pass on information as you have done.

20 THE WITNESS: That is my job.

21 MR. CAMP: But you don't know  
22 what the decision is until ---

23 THE WITNESS: Not until the  
24 decision is made.

25 MR. CAMP: Were London and  
26 Sarnia done together or were they done separately,  
27 so far as you were concerned?

28 THE WITNESS: So far as I am  
29 concerned, it was all one package. It was  
30 owned by the same owner, as far as I knew -- I didn't





1 even know that Birch and Burns were involved  
2 in the thing until it was over. As far as I  
3 knew, Halliley was the owner and he was the  
4 man who was selling it.

5 MR. CAMP: So it was really a  
6 matter of two Canadian managers of two American  
7 organizations, trading information which was  
8 then passed on to the respective home offices  
9 and then you would be informed in due process  
10 as to whether it was go or no?

11 THE WITNESS: Correct.

12 MR. CAMP: You were not given  
13 prior knowledge about Windsor either?

14 THE WITNESS: Gee, I can't really  
15 recall. That is a long time ago.

16 THE CHAIRMAN: How long ago was it?

17 THE WITNESS: Two or three years  
18 ago.

19 MR. CAMP: I may have missed  
20 something, and I apologize if I am repetitive  
21 or redundant, but how long have you had this  
22 position with TV Guide?

23 THE WITNESS: I started with  
24 TV Guide 13-1/2 years ago in Montreal as a  
25 circulation field representative and in New  
26 England, and I came to Toronto five years ago  
27 when we opened our operation here. I was  
28 regional circulation manager and subsequently  
29 I was promoted to my present position.

30 MR. CAMP: When did you become







1           assistant circulation manager?

2                       THE WITNESS:   Circulation manager  
3           and Canadian division manager, that was four and  
4           a half years ago.

5                       MR. HOLLAND:   Mr. Chairman, there  
6           was a question asked of this witness about  
7           Windsor and his answer was, as I remember it,  
8           it was 2 or 3 years ago. I think the Commission  
9           might like to know that our investigation  
10          reveals the sale was in March of 1970.

11                      THE CHAIRMAN:   14 months ago.

12                      MR. CAMP:    So I guess the answer  
13          to the question is you are really not involved  
14          or informed or consulted with?

15                      THE WITNESS:   I am not normally.  
16          Many of the wholesalers like to be in touch  
17          with head office. On these occasions I find  
18          information -- Mr. Fred O'Brien talks to Mr.  
19          Lichtenberg frequently. I deal with Mr.  
20          Fred O'Brien's manager. In the smaller agencies  
21          where the owner is also the manager, primarily  
22          I deal with him. There are trips to Florida  
23          and so on. On a day-to-day operation it would  
24          be very difficult to contact the owner of any  
25          of the larger agencies.

26                      MR. CAMP:    You knew Mr. Cosgrove  
27          when he was general manager of TV Guide?

28                      THE WITNESS:   Yes, sir.

29                      MR. CAMP:    What did you think  
30          of him?





1 THE WITNESS: I had a very  
2 high regard for Mr. Cosgrove.

3 MR. CAMP: Did you know Mr.  
4 O'Brien, who also, I guess, has a client  
5 relationship with you?

6 THE WITNESS: Mr. Fred O'Brien,  
7 yes. Another fine gentleman.

8 MR. CAMP: So, as far as you  
9 were concerned, they would be competent to look  
10 after your interests in Kitchener in the new  
11 arrangements?

12 THE WITNESS: I am not at liberty  
13 to pass on that decision. It is not my decision  
14 to make.

15 MR. CAMP: I think that is  
16 obvious. In your judgment, as a person who has  
17 13-1/2 years with TV Guide, looking after its  
18 interests and just in the management of the  
19 company in Canada than anyone here, if you were  
20 given the single authority or responsibility  
21 to make the decision, would that arrangement in  
22 Kitchener be satisfactory to you?

23 THE WITNESS: No, it would not.

24 MR. CAMP: Why?

25 THE WITNESS: Because it  
26 involves another North American distributor  
27 in competition.

28 MR. CAMP: With reference to  
29 Gordon and Gotch, is it?

30 THE WITNESS: That is right.





1 MR. CAMP: The other witnesses  
2 have not really expanded much on that. Perhaps  
3 you could tell us what you think?

4 THE WITNESS: There is a conflict  
5 of interests for services from wholesalers,  
6 primarily given because of clout -- that was a  
7 word that was coined on this Commission.--I never  
8 heard it before ---

9 MR. CAMP: It is Dr. Jeanneret's  
10 expression.

11 DR. JEANNERET: Read the evidence  
12 and you will find I waited until you used it.

13 THE WITNESS: We have to compete  
14 on the newsstands for space. Currently Gordon  
15 and Gotch have many, many-part books.

16 MR. CAMP: Would you spell that,  
17 please?

18 THE WITNESS: P-a-r-t.  
19 They happen to be my competitors, but they consume  
20 a great deal of space on the newsstands which is  
21 to the detriment of certain of my publications.

22 MR. CAMP: They are not selling  
23 TV Guide?

24 THE WITNESS: No.

25 MR. CAMP: As a matter of fact,  
26 Television Guide is not on the newsstands?

27 THE WITNESS: You are selling  
28 apples and I am selling oranges and if somebody  
29 has a nickel they are going to buy one or the  
30 other.







1 MR. CAMP: It would be a question  
2 of whether or not they bought Television Guide?

3 THE WITNESS: Yes.

4 MR. CAMP: TV Guide is not  
5 really on the newsstands anyway, it is especially  
6 displayed almost everywhere?

7 THE WITNESS: It is on the  
8 newsstands.

9 MR. CAMP: They are by the  
10 cash registers.

11 THE WITNESS: In Canada I would  
12 say we sell in the vicinity of supermarkets,  
13 70 per cent of our sales are in the supermarkets.  
14 We have a large sale on the newsstands.

15 MR. CAMP: Are you aware that  
16 your so-called competitors in the Kitchener News  
17 Company, are there strictly from the point of  
18 view of an investment and that they have no  
19 managerial influence or direction?

20 THE WITNESS: It is not a concern  
21 of mine. My concern is that they are involved  
22 in it and, therefore, I want no part of it  
23 personally. It does not concern me. That is  
24 my personal feeling.

25 MR. CAMP: So Mr. Lichtenberg  
26 decides to put some more TV Guides into Kitchener  
27 through Kitchener News Agency, you think that  
28 is contrary to the interests of Metro Toronto?  
29 Do you think that is contrary to the interests  
30 of Toronto?





1 THE WITNESS: That is true.

2 MR. CAMP: I have a very serious  
3 question to ask you now: What part of the  
4 country do you come from?

5 THE WITNESS: I am a New  
6 Brunswicker and there is no place I would rather  
7 be.

8 THE CHAIRMAN: I have an idea  
9 both of you would like to be there right now.

10 THE WITNESS: I was called back  
11 from my vacation on the coast of P.E.I.

12 DR. JEANNERET: Do you have  
13 access to the orders that are placed by the  
14 geographical wholesalers for publications as  
15 they are placed? I presume they are not run  
16 through you?

17 THE WITNESS: Yes. I spend a  
18 fair amount of time in our head office in Radnor,  
19 Pennsylvania. As it concerns my own operation  
20 in Canada, I would say I am probably there  
21 a week out of every couple of months.

22 I go into distribution of paperbacks, magazines,  
23 I work with people in the department. I have  
24 certain towns in Canada where we are on what we  
25 call order solicitation, Montreal and Toronto,  
26 where they send orders ---

27 DR. JEANNERET: You get the  
28 information, orders coming out of the Canadian  
29 territory from Radnor?

30 THE WITNESS: Some from Radnor





1 and some from the wholesalers. Some wholesalers  
2 send orders directly to our office in Radnor  
3 and most send them to me. Again it is a matter  
4 of choice. I would prefer if they came  
5 through me because, in certain instances I can  
6 get things from a certain wholesaler who is  
7 overstocked.

8 DR. JEANNERET: I have not been  
9 able to pin down in my mind exactly what your  
10 function is, what your job is. I know what it  
11 is called. I know you go to Radnor from time  
12 to time and you make telephone calls.

13 THE WITNESS: Would you like  
14 me to give you an outline?

15 DR. JEANNERET: If you would  
16 just give us an outline.

17 THE WITNESS: Policy is set  
18 by Mr. Lichtenberg, it is outlined by Mr.  
19 Crocker, and it is directed by me to the  
20 circulation field representatives in Canada,  
21 of which I have six. We have two offices  
22 in Canada, one in Toronto, this is called the  
23 Toronto region. We have another office in  
24 Vancouver, which is the Vancouver region. We  
25 have two printing plants, two contract printers,  
26 one in Vancouver, B.C., Evergreen Press, and we  
27 have Southam-Murray in Toronto. My function is  
28 the direction of the circulation personnel  
29 across Canada, the traffic and production of  
30 TV Guide in the Toronto area, and supervision of







1 the traffic out of Vancouver.

2 DR. JEANNERET: Thanks. The whole  
3 concept of having a second distributor is my  
4 only interest in the wholesaler in Kitchener  
5 and you pointed it out as being, in your judgment,  
6 unsound, unsound business. I am putting words  
7 in your mouth, but this is the position you  
8 adopted on the grounds there might be a conflict  
9 of interests. The concept of servicing Kitchener  
10 accounts with merely TV Guide, presumably,  
11 Seventeen and some paperbacks from Toronto by  
12 truck, that must have struck you as a rather  
13 inefficient way of doing business.





1 THE WITNESS: Not necessarily.

2 I worked with the American News Company many years  
3 ago and we had long involved trips.

4 DR. JEANNERET: Did it strike you that  
5 this could be a business operation which was  
6 efficient in itself or that could only become  
7 efficient as a stepping stone for taking over?

8 THE WITNESS: No, as I say when this  
9 thing was started we needed a guiding hand to  
10 get organized in the Kitchener area. To start  
11 with we did all the spade work in contacting  
12 dealers, setting up the dealer allotments, and so  
13 on, going with the drivers on trucks for the first  
14 three weeks. Now, after the three weeks I told  
15 them, "You are on your own". I will treat them  
16 in exactly the same way as I treat every other  
17 route wholesaler in Canada. If they can't handle it,  
18 I will find somebody else. We had occasion three  
19 years ago right here in Toronto where the former  
20 manager of Metro Toronto News took it upon himself  
21 to cut off 91 TV Guide dealers in the city of  
22 Toronto and I found out about it at a convention  
23 in Vancouver.

24 I immediately came to Toronto,  
25 got my men to resolicit the dealers, started up a  
26 new wholesaler in the city of Toronto. That whole-  
27 saler has some 124 or probably 150 accounts plus  
28 a young merchant operation. For many years we had  
29 a coupon book for boys. These were all offered  
30 to the geographical wholesalers across Ontario.





1 Some would supply the young merchants, some would  
2 not. It was our decision at that time that we  
3 would set up a wholesaler because we were disappointing  
4 children. Some wholesalers would give them coupons.  
5 It was my decision at that time to start a  
6 universal wholesaler and we did in some cases where  
7 we knew the wholesaler would supply and we gave  
8 these coupons to the wholesaler.

9 We had checks on the inflow of these  
10 coupons and we controlled it very well. I would  
11 say right now there is no dealer in Canada  
12 as a long time division manager, there is no  
13 retail dealer in Canada that can supply and beat  
14 this Triangle circulation of magazines.

15 DR. JEANNERET: On the TV Guide  
16 particularly in Kitchener, supposing one of the  
17 Hamilton news companies decided to join the race,  
18 you would have taken the view that they should not  
19 be permitted to do this because you supplied them  
20 only for selling in their own territory?

21 THE WITNESS: Yes.

22 DR. JEANNERET: And, therefore,  
23 do you reaffirm what we were told earlier by  
24 Mr. Lichtenberg, and that is that he would consider  
25 it your purposes to be able to say to whom you will  
26 sell and to whom you will not sell, whoever your  
27 customers might be?

28 THE WITNESS: Right, only on the  
29 wholesale level. On the retail level we will sell  
30 to anybody who pays their bills to the wholesaler.







1 DR. JEANNERET: But apart from  
2 credit considerations you make these decisions not  
3 on the basis of quantity but on the basis of your  
4 own policy decision?

5 THE WITNESS: Right.

6 MR. CAMP: You said that you knew  
7 Mr. Cosgrove and you were favourably impressed?

8 THE WITNESS: That is right.

9 MR. CAMP: This would not only be a  
10 social judgment but a professional opinion based  
11 on your association with him?

12 THE WITNESS: Both.

13 MR. CAMP: Therefore, when  
14 Mr. Lichtenberg said to Mr. Hill, as Mr. Hill  
15 reported him saying, that Mr. Cosgrove had done a  
16 lousy job in Toronto, Mr. Lichtenberg would not  
17 have obtained that opinion from you?

18 THE WITNESS: Mr. Lichtenberg gets  
19 reports from me and all reports are attributed to  
20 management and my report as related to Mr. Cosgrove,  
21 I would say that Mr. Cosgrove is a good man insofar  
22 as I was able to determine.

23 MR. CAMP: So, the fact is that  
24 Mr. Lichtenberg's opinion of Mr. Cosgrove that he  
25 had done a lousy job in Toronto would not be your  
26 opinion?

27 THE WITNESS: That would come from  
28 reports that were circulated by either myself or  
29 my circulation field representatives and I don't  
30 think that Mr. Lichtenberg has the time to be involved





Toronto, Ontario

1 in -- this dealer does a lousy job and that dealer  
2 does a lousy job. That would come from one of the  
3 managers.

4 MR. CAMP: In other words, you  
5 didn't blame Mr. Cosgrove for any difficulties  
6 there were or may have been?

7 THE WITNESS: I think that anybody  
8 that manages any company has a certain responsibility.  
9 I knew where the problems were because I was deeply  
10 involved. I know probably that I know more employees  
11 of Metro Toronto News than 99 per cent of the  
12 people in this room, including the owners.

13 MR. CAMP: I am sure of that.

14 THE WITNESS: Personally.

15 THE CHAIRMAN: Can we go back to  
16 rumours for a moment?

17 THE WITNESS: There was a rumour  
18 circulating here that Mr. Lichtenberg would not  
19 appear today. I offered to take all bets -- no  
20 takers.

21 THE CHAIRMAN: Well, you do pretty  
22 well.

23 THE WITNESS: There is some basis  
24 in fact somewhere.

25 THE CHAIRMAN: Let us talk about  
26 rumours in the trade. We have heard it said that  
27 there are many rumours in the trade and that  
28 rumours and information are passed quickly in the  
29 trade, is that right?

30 THE WITNESS: Very quickly.





1 THE CHAIRMAN: And by and large,  
2 most of the activities that are being negotiated  
3 or under discussion, will appear somewhere in  
4 rumours because somebody somewhere knows that  
5 something is going on. Is this a pretty good  
6 insight into the trade?

7 THE WITNESS: It is a pretty good  
8 insight.

9 THE CHAIRMAN: Did you hear any  
10 rumours before April 21st that Kitchener was  
11 in negotiation by anybody for sale?

12 THE WITNESS: Absolutely not.  
13 One thing is that in the last few years I was not  
14 as deeply involved with the other circulation  
15 representatives as I am now. I do a great deal of  
16 travelling and I don't get into the day-to-day  
17 operations. I depend on my men to pass on any  
18 gems of information.

19 THE CHAIRMAN: No one had passed  
20 on to you or anyone else that Kitchener was in  
21 negotiation as far as a sale was concerned?

22 THE WITNESS: Absolutely not, it  
23 was a complete shock to me.

24 THE CHAIRMAN: Did anyone ever tell  
25 you that Mark Molasky had made an offer for Kitchener  
26 on the 21st of April prior to these hearings?

27 THE WITNESS: Oh, I had heard  
28 through the usual rumours.

29 THE CHAIRMAN: When did you hear  
30 that? Can you tell us?







1 THE WITNESS: I don't really recall.

2 THE CHAIRMAN: But it was a rumour  
3 that you heard that he had made an offer?

4 THE WITNESS: I had heard something  
5 of this nature.

6 THE CHAIRMAN: Have you had any  
7 discussions with Mark Molasky since April 21st?

8 THE WITNESS: I have talked to  
9 Mr. Molasky a few times, yes.

10 THE CHAIRMAN: By telephone?

11 THE WITNESS: Personally, he is in  
12 Toronto quite a bit and we have a sociable drink  
13 together with Mr. Romanez, Mr. McMonigle and  
14 Mr. Flegel and several other people in the business.  
15 In fact, we had a dinner on June 10th for  
16 the wholesalers at which we socialized for a few  
17 days.

18 THE CHAIRMAN: And exchanged  
19 information?

20 THE WITNESS: Right.

21 THE CHAIRMAN: Now, who first informed  
22 you about the sale of Belleville earlier in the  
23 year?

24 THE WITNESS: I believe that was  
25 given to me by Mr. Crocker.

26 THE CHAIRMAN: Of your own  
27 organization?

28 THE WITNESS: Yes.

29 THE CHAIRMAN: So, therefore, no one  
30 had approached you from the vendor or the purchaser





1 with regard to approval of that transaction?

2 THE WITNESS: No.

3 THE CHAIRMAN: What did Mr. Crocker  
4 tell you about it?

5 THE WITNESS: Well, we have dealings  
6 and discussions and it is difficult to say exactly  
7 what Mr. Crocker said. I talk to him practically  
8 every day.

9 THE CHAIRMAN: Do you recall that  
10 he passed on the information that the approval of  
11 the sale of the Belleville interests --

12 THE WITNESS: I believe the way he  
13 told me was that Metro Toronto News were in the  
14 process of purchasing Belleville and I want you  
15 to make sure that we are protected insofar as  
16 the service to the dealers is concerned<sup>"</sup> and that was  
17 it. I am not surprised at any sale in Canada.  
18 They have been going on for some time when this  
19 white paper was introduced regarding capital gains  
20 tax. People with money like to get out and don't  
21 want to spend any more than they have to.

22 THE CHAIRMAN: You hear quite a bit,  
23 have you ever heard of Colonial Distributors Limited?

24 THE WITNESS: Yes.

25 THE CHAIRMAN: Who are they?

26 THE WITNESS: Colonial Distributors,  
27 as far as I know, are part of Metro Toronto News.

28 THE CHAIRMAN: Do you know what they  
29 distribute or handle?

30 THE WITNESS: They handle some Canadian





1 publications. I couldn't give you the titles.  
2 They vary.

3 THE CHAIRMAN: Do they, in effect,  
4 undertake the same kind of operation as Gordon & Getch?

5 THE WITNESS: I don't think so.  
6 Historically this thing has gone on for some time  
7 ever since I came into the business. Metro Toronto  
8 News, under three ownerships, Swindon, Bill Smith  
9 and now Melasky, this is something that has been  
10 with them.

11 THE CHAIRMAN: Colonial Distributors  
12 Limited are keeping space on the shelves just  
13 as Gordon & Getch are doing?

14 THE WITNESS: Not to the same  
15 extent.

16 THE CHAIRMAN: But they do?

17 THE WITNESS: Oh, I imagine they do.

18 THE CHAIRMAN: Have you ever raised  
19 any objection to Metro News having any distributor  
20 which it owns competing against yours?

21 THE WITNESS: Never. I think it is  
22 more historic than someone new coming into the  
23 business.

24 THE CHAIRMAN: Is there a conflict  
25 of interest in your view?

26 THE WITNESS: I would say there is,  
27 yes.

28 THE CHAIRMAN: Did you ever object to  
29 this?

30 THE WITNESS: No.







1 THE CHAIRMAN: Have you ever met  
2 any of the Rottman family in the pursuit of your  
3 business?

4 THE WITNESS: Have I ever met any  
5 of the Rottman family? Yes, I know Joe Rottman  
6 very well. Joe Rottman has been resident of  
7 Montreal for many years and recently moved to  
8 Miami. He invented the goal posts used in the N.F.L.,  
9 C.F.L. and A.F.L.

10 DR. JEANNERET: He invented what?

11 THE WITNESS: He invented the new  
12 goal posts.

13 MR. CAMP: I wish I had thought of it.  
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26  
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30





1 THE WITNESS: I see Rottman  
2 two or three times a year in the course of my  
3 business.  
4

5 CROSS-EXAMINATION BY MR. SEDGWICK:  
6

7 Q. Would you point out to me on  
8 that list of distributors, the Colonial, or whatever  
9 it is?

10 A. I guess it is not important  
11 enough to be on there.

12 Q. It is not important enough,  
13 is that not right?

14 A. I would say so.

15 Q. I am told it only does about  
16 \$50,000 a year gross, would that about agree  
17 with your estimate?

18 A. I have no idea.

19 Q. It is unimportant in your  
20 view?

21 A. It is small. I couldn't concern  
22 myself.

23 Q. As to Gordon and Gotch, are  
24 they small?

25 A. They are not very small.  
26 They are world-wide.

27 Q. So they do concern you?

28 A. Yes.

29 Q. I believe you said earlier  
30 that probably the worst of your distributors a





1 year or two ago, was Metro Toronto News?

2 A. That is right.

3 Q. Who was the manager at that  
4 time?

5 A. Mr. Cosgrove.

6 Q. Since Mr. Romanez took over  
7 the management in 1971, what do you say about  
8 the service that you get from Metro Toronto News?

9 A. I would say it has been  
10 fantastic, so far as Triangle Circulation Company  
11 is concerned.

12 Q. It has been a fantastic  
13 improvement?

14 A. Right.

15 Q. Thank you. This is my last  
16 question: When did you get from your head  
17 office the final approval to give the TV Guide  
18 to Metro Toronto News for Kitchener distribution?  
19 Could you give me a date?

20 A. It was on a Friday prior to  
21 the Monday delivery.

22 Q. That would be the 28th?

23 A. That would be three days  
24 prior to ---

25 Q. Would that be the 28th of  
26 April?

27 A. In that area.

28 Q. I see, if my calendar is right,  
29 the last Friday in April was the 29th. Would  
30 that be about the date you got the word?







1 A. I would say about that date.

2 MR. SEDGWICK: That is all,  
3 thank you very much.

4 MR. CAMP: Among your responsibilities  
5 you are also responsible for the Daily Racing  
6 Form?

7 THE WITNESS: I am not.

8 MR. CAMP: This is an ambivalent  
9 thing.

10 THE WITNESS: It is located in  
11 the same building and Mr. David Schultz -- I am  
12 sure if you ask him ---

13 MR. CAMP: I have no great  
14 amount of questions to ask.

15 THE WITNESS: If you wish, I  
16 could give you the daily circulation figures.

17 MR. CAMP: It is owned by  
18 Triangle, is it not?

19 THE WITNESS: Yes.

20 MR. CAMP: And even though it  
21 is owned by Triangle, it is still being circulated  
22 in Kitchener by a company which Gordon and Gotch  
23 have affairs in?

24 THE WITNESS: That is right.

25 MR. CAMP: That is a serious  
26 conflict of interests?

27 THE WITNESS: I have nothing  
28 to do with it. That is McMurray Publishing.

29 MR. CAMP: Who owns McMurray  
30 Publishing?





1 THE WITNESS: Triangle owns it  
2 but I don't think it would go that high, you  
3 know. This would be something that Mr. Schultz  
4 could determine, who is the local general manager.

5 MR. CAMP: Mr. Schultz is the  
6 local general manager?

7 THE WITNESS: Yes.

8 MR. CAMP: He could take the  
9 franchise and move it out if he wished.

10 THE WITNESS: I would say so.  
11 It is a different division. It does not come  
12 under my scope of operations. I think I could  
13 probably convince Mr. Schultz to do that if I  
14 were so disposed.

15 May I introduce some evidence?

16 THE CHAIRMAN: Have you got something  
17 you want to give us?

18 THE WITNESS: Here are some of  
19 our Popular Library Books.

20 THE CHAIRMAN: Are these returns?  
21 (Laughter)

22 THE WITNESS: These are  
23 complimentary copies that come to me from the  
24 publisher. You might be interested in them.  
25 This is something we are trying to build up  
26 Canadian authors with. We have more if you wish  
27 more. Dr. Jeanneret seems to be interested  
28 in the current titles now.

29 THE CHAIRMAN: Are you suggesting  
30 we might read this while we hear the evidence?





1 MR. CAMP: It is all fiction, I  
2 gather.

3 THE CHAIRMAN: Thank you very  
4 much.

5 We will adjourn for a few  
6 minutes now.

7  
8 ---Recess  
9

10 THE CHAIRMAN: Can we proceed  
11 now, please? Mr. Holland, do you have another  
12 witness?

13 MR. HOLLAND: Reginald Halliley.

14 I should advise the Commission  
15 that Mr. Halliley is represented by Mr. Raymond  
16 Wyrzykowski, as his counsel.

17 Apparently Mr. Wyrzykowski wants  
18 to address the hearing.

19 MR. WYRZYKOWSKI: May I say  
20 a few words. My name is quite difficult to  
21 spell, W-y-r-z-y-k-o-w-s-k-i. I am afraid the  
22 experience of Mr. Halliley and myself is quite  
23 different to that of you and Mr. Sedgwick.  
24 This is, for both of us, our first appearance  
25 before a Royal Commission. We are here basically  
26 as laymen.

27 In that regard, I might say that  
28 I am somewhat surprised at the form of evidence  
29 that goes in, particularly when evidence will  
30 go in as to how the witness reacts at the end of







1 a long distance phone call and that evidence  
2 may have an unsavoury flavour and the witness  
3 does not have an opportunity to clear himself.  
4 If we err in procedure, please raise it, as we  
5 will intend to assist the Commission. It is  
6 just from lack of experience.

7 THE CHAIRMAN: Thank you.

8  
9 REGINALD HALLILEY, sworn

10  
11 EXAMINATION BY MR. HOLLAND:

12  
13 Q. Where do you reside?

14 A. Sarnia, Ontario.

15 THE CHAIRMAN: One second.

16 I am in the process of getting organized.

17 MR. HOLLAND: Q. You reside  
18 in Sarnia, Ontario?

19 A. Yes.

20 Q. You are a Canadian citizen?

21 A. Right.

22 Q. You were formerly the owner  
23 of Lambton News Service and TV Carrier Services?

24 A. Yes.

25 Q. These are sole proprietorships?

26 A. Yes.

27 Q. I believe you were formerly  
28 the owner of 60 per cent of the stock of  
29 Western Ontario Distributors Limited?

30 A. Right.





1 Q. Would you very briefly  
2 explain the difference between TV Carrier Sales  
3 and Lambton News Service?

4 A. Lambton News Service is a  
5 conventional News Agency. TV Carrier Sales  
6 is a mail order business dealing exclusively  
7 with the sales of TV Guide to carrier boys and  
8 girls an, generally, small communities that  
9 are not served by wholesalers.

10 Q. May I see Exhibit 7?

11 I am showing you Exhibit No. 7  
12 which appears to be an agreement of purchase  
13 and sale dated May 25th, 1971, between you and  
14 Somerset Specialties Limited, for the purchase  
15 of certain shares of Western Ontario Distributors  
16 Limited. Can you recognize your signature on that  
17 agreement?

18 A. Yes.

19 Q. And would you look at  
20 paragraph 7 of that agreement -- I am sorry --  
21 paragraph 5 of that agreement? I believe the  
22 closing date was June 30th, 1971, is that correct?

23 A. That is correct.

24 Q. When, in fact, this transaction  
25 was closed?

26 A. June the 11th.

27 Q. And did your sale of your  
28 interest in London and your sale of your interest  
29 in Sarnia, both close on June the 11th?

30 A. The three companies were closed





1 on June the 11th.

2 Q. The original closing date  
3 was June 30th?

4 A. Correct.

5 Q. Did you ask for this earlier  
6 closing date? Did you, personally?

7 A. I did not personally ask  
8 for an earlier closing date.

9 Q. Did your solicitor, to your  
10 knowledge, ask for an earlier closing date?

11 A. This was a matter that was  
12 left in the hands of the solicitors. I should  
13 explain that we signed this agreement, the one  
14 on May the 25th, very late at night. In fact,  
15 I think it was 1:30 in the morning. At that  
16 time Martin Molasky -- Mark Molasky, raised the  
17 question, two questions. He wanted to send his  
18 people in to the respective agencies to take  
19 off figures on the dealers and he also wanted  
20 to send his people in to remove inventory for  
21 which he would have a receipt. I objected to  
22 this. I said -- I took the position that until  
23 he actually owned the agency, this could not  
24 be done.

25 Q. Did he agree?

26 A. This matter was left in  
27 abeyance. There was no decision reached on that  
28 that night.

29 Q. In any event, you agreed on  
30 the closing date?







1 A. We agreed on the closing  
2 date which was June 30th.

3 MR. SEDGWICK: I don't want to  
4 interrupt, but that is not what the agreement  
5 says. It says June 30th or any earlier date  
6 agreed upon. I think it should be put on the  
7 record.

8 MR. HOLLAND: Q. You told us  
9 that you did not personally ask for an earlier  
10 closing date. Now, did your solicitor ask for  
11 an earlier closing date?

12 A. I don't know which side it  
13 came from but I was advised by Mr. Wyrzykowski  
14 that the closing date had been advanced to June  
15 the 11th.

16 Q. When were you told that?

17 A. Some time prior to May the  
18 30th, around -- I can't remember the particular  
19 date, but I was advised that the date had been  
20 advanced. Mr. Wyrzykowski and I felt this  
21 was a happy solution to the whole matter because  
22 of the two points that we had been in controversy  
23 on. Mr. Molasky felt that my refusal to allow  
24 these things to be done was going to be detrimental  
25 to him from a monetary point of view, and also  
26 we were concerned we knew the budget was coming  
27 down. We didn't know exactly what date. We  
28 felt that we had everything to gain by an  
29 earlier closing date.

30 Q. And did your solicitor advise





1 you of this by letter?

2 A. No.

3 Q. He advised you by telephone?

4 A. Yes.

5 Q. And you were happy to go

6 along with this suggestion?

7 A. Yes.

8 Q. This was within five days

9 of the date of that agreement that you were

10 advised of the advanced date for closing?

11 A. I notice I have a note

12 here that more or less ties in with that.

13 I called the bank and asked them to take out

14 a statement as of June the 11th and this is

15 dated May the 30th. I also have one dated

16 May the 31st, "Get share certificates", because

17 we were going to have an annual meeting on the

18 outcome of the June the 11th closing.

19 Q. I hope we are looking at

20 the same document. Would you look at page

21 11, paragraph 6 of the agreement?

22

23

24

25

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1 THE CHAIRMAN: You are still  
2 referring to Exhibit 37, Mr. Holland?

3 MR. HOLLAND: Yes, I am, Mr. Chairman.

4 Q. I notice that under the terms  
5 of that paragraph there was a \$50,000 hold-back?

6 A. Correct.

7 Q. And that was to be held back  
8 I believe for one year?

9 A. Right.

10 Q. And that money is still being  
11 held back?

12 A. Until the final audit figures  
13 are taken off as of June 11th.

14 Q. Now, as of the 25th of May,  
15 had you heard about the sale of Kitchener?

16 A. The 25th of May? Yes, I had.

17 Q. And had you heard, as of that  
18 date, that Kitchener News Company had been sold to  
19 a group which was not Metro Toronto News?

20 A. Yes, I think I heard of that  
21 before the event took place and that was around  
22 the end of April when I heard that.

23 Q. Did you know who the purchasers  
24 in Kitchener were on the 25th of May?

25 A. Yes, I did.

26 Q. Had you heard that Kitchener  
27 News Company --

28 A. I can't remember when the formal  
29 announcement came out but I had heard.

30 Q. Had you heard as of the 25th of May







1 that Kitchener News Company Limited had lost the  
2 right, if we can call it that, to distribute TV  
3 Guide?

4 A. I don't know, I couldn't say  
5 that for sure. I think that the matter was still  
6 in abeyance. I don't know for sure.

7 Q. Had you heard as of that date,  
8 that is the date of this agreement, that Metro  
9 Toronto News Company was taking over the distribution  
10 of TV Guide in the Kitchener area?

11 A. I couldn't be sure about that.

12 Q. You don't remember one way or  
13 the other?

14 A. I couldn't be sure whether I  
15 knew that on May 25th or not.

16 Q. About a week following the  
17 signing of that agreement of sale, that is, about  
18 a week following the 25th, did you have a telephone  
19 conversation with Mr. Fred O'Brien concerning the  
20 sale?

21 A. Well, I was president of our  
22 National Association and I received a great many  
23 telephone calls. Mr. O'Brien and I have been  
24 friends of longstanding and he and I talk to each  
25 other by telephone very frequently. I can't put a  
26 date on any of them.

27 Q. Do you remember discussing  
28 this sale with Mr. O'Brien after that agreement  
29 had been executed?

30 A. I don't know whether I discussed





1 it with him before or afterwards.

2 Q. Do you remember Mr. O'Brien  
3 saying to you that he knew of some Canadians who  
4 would be interested in purchasing your interests?

5 A. At the Calgary convention  
6 I, since Mr. O'Brien and I were very good friends,  
7 told him that I had had a meeting with Mr. Molasky --

8 Q. Now, can you give us the date  
9 of the Calgary convention?

10 A. Not exactly but I think it  
11 was about the middle of May. If I am not mistaken  
12 it was about the 17th and the 18th of May. It  
13 may have been the 16th, 17th and 18th.

14 Q. What conversation did you have  
15 with Mr. O'Brien at that time?

16 A. Well, since he and I were good  
17 friends, I told him that because of various  
18 circumstances that I had just come off a loss  
19 position, I had got the financial statement for the  
20 year ending February 28th for London. I got that  
21 about the end of April and we had come up with a  
22 loss and I told him that I had about made up my  
23 mind that I was going to sell the agency and that  
24 I had had some conversations with Mr. Molasky.

25 This was about a week before that.  
26 I guess I am still Canadian enough -- and this is not  
27 derogatory in any way to Mr. Molasky for whom I have  
28 a great deal of admiration -- but I said, "Do you  
29 think that there is anybody in Canada who could come  
30 up with the money that is required here in a hurry?"







1 He mentioned two people, one of whom I spoke to,  
2 the other one I didn't hear from for a long time,  
3 until after the deal was consummated and he told  
4 me that it would have taken him months to have  
5 arrived at a decision.

6 Q. After the deal was completed,  
7 do you remember a telephone conversation with  
8 Mr. O'Brien in which he asked about the sale?

9 A. Not specifically because I  
10 have had so many conversations with him. At that  
11 time I was still president of the Association and  
12 as I say, we discussed so many different things,  
13 just about every problem really in the industry  
14 lands on the president's desk, and Fred O'Brien  
15 had been a director of the Association longer  
16 than anybody else and I relied on his opinions a  
17 lot during this time.

18 Q. Do you ever remember saying  
19 to Mr. O'Brien that Mr. Molasky had told you that  
20 if you didn't sell to him he would raid you the  
21 way he had raided Kitchener?

22 A. Well, yesterday when Fred was  
23 on the stand and he said he didn't want to answer  
24 this question because it would be embarrassing I  
25 made a point of speaking to him in the hall and I  
26 said, "Fred what possible question could you not  
27 answer that would be embarrassing to me?" And  
28 he said, "Well, you told me that Molasky said that  
29 if you did not sell to him that they would come  
30 into your territory." I just shook my head in







1       bewilderment because I have no recollection of  
2       having said that.

3                   Q.     Do you have any recollection  
4       of saying to Mr. O'Brien that Mr. Molasky had  
5       also told you that if you sold to anyone else,  
6       that is anyone other than the Molasky interests,  
7       that territory would be raided the way Kitchener had  
8       been raided?

9                   A.     No, I don't. It is pretty hard  
10      to remember a conversation word for word but  
11      certainly the thought that was going through my  
12      mind at that time was that in view of the fact of  
13      what had happened in Kitchener -- we will set that  
14      aside for a moment -- I had got to know Mr. Molasky  
15      and the young man who was with him very well.

16                  Q.     That is Mr. Flegel.

17                  A.     Mr. Flegel.

18                  Q.     Who is here today?

19                  A.     Yes. And I realized that they  
20      had an organization that was very competitive and  
21      they were young, they had a lot of good ideas,  
22      they were going to -- they realized what was  
23      within their rights and what was not within their  
24      rights and that it would not have surprised me a  
25      bit -- to put it in a more simple way: I felt  
26      that if somebody else bought it they would probably  
27      have considerable difficulty in getting all the  
28      publishers to agree to sell to them.

29                  Q.     Why?

30                  A.     Well, because I felt that the





1 Molasky organization has a good reputation in the  
2 business, they evidently have a lot of influence  
3 in the business -- much more influence than I  
4 possess or, as far as I know, any other Canadian  
5 wholesaler possesses, and I felt that they would  
6 have difficulty and we also all recognize today  
7 that there is no such thing as territorial rights  
8 any more. That is something that has gone by the  
9 board.

10 Q. Now, did Mr. Molasky or any  
11 of the people with him, in fact, say to you that  
12 if you didn't sell to the Molasky interests they  
13 would raid?

14 A. No.

15 Q. Did he say to you that if, in  
16 fact, you sold to anyone other than the Molasky  
17 interests they would raid?

18 A. No.

19 Q. You just feared this, is that  
20 it?

21 A. It was a natural conclusion that  
22 I came to. I don't like to use that word "raid"  
23 because since there is no longer such a thing  
24 as territorial rights anybody can sell anywhere.

25 Q. Well, you were afraid, let me  
26 put it this way --

27 A. I would think that a great deal  
28 of time had elapsed between, supposing I was to sell  
29 to someone, say Joe Dokes, and he had got an  
30 agreement from all the publishers that they were





1 going to sell to him, this would have been detrimental  
2 to me.

3 Q. , He would have a great deal of  
4 difficulty because the Molasky interests had, to  
5 use your words, a lot of influence?

6 A. A lot of influence.

7 Q. A lot of influence with whom --  
8 the North American distributors?

9 A. Yes, I would say so.

10 Q. And were you afraid whether  
11 or not it was expressed, and you say it wasn't,  
12 were you afraid in your own mind that if you did  
13 not sell to the Molasky interests then the Molasky  
14 interests might use this influence that you have  
15 talked about to take away some of the distributors  
16 or to distribute to some of the distributors that  
17 were using your services?

18 A. No, I was not afraid of that.

19 MR. HOLLAND: I have no further  
20 questions of this witness.

21 MR. CAMP: You were anxious,  
22 Mr. Halliley, I think you said, to sell for cash?

23 THE WITNESS: Right.

24 MR. CAMP: So that Mr. Molasky was  
25 the only one, the only prospect who could provide  
26 instant cash?

27 THE WITNESS: Well, let us put it  
28 in a different way, he was the only one who really  
29 made an offer and he offered cash.

30 MR. CAMP: You really did -- and I







1 say really did, not because you did but because  
2 I was seeking information -- make contact with one  
3 of the prospective purchasers suggested to you  
4 by Mr. O'Brien asking about his interest?

5 THE WITNESS: He was just leaving  
6 for some place out of town and when he came back  
7 I told him I had completed the deal.

8 MR. CAMP: I thought I heard you say  
9 that he didn't offer cash anyway.

10 THE WITNESS: I didn't say that  
11 he didn't offer cash. I said he doubted if this  
12 kind of cash could be forthcoming.

13 MR. CAMP: Did you get the audit  
14 as of February 28th as yet?

15 THE WITNESS: Right.

16 MR. CAMP: Showing a loss on the  
17 operation?

18 THE WITNESS: I showed a loss on  
19 operations of over \$14,000.

20 MR. CAMP: \$14,000?

21 THE WITNESS: Yes.

22 MR. CAMP: Apart from normal business  
23 losses, was there any other reason for the loss  
24 that you know of?

25 THE WITNESS: I don't have any facts.

26 MR. CAMP: What do you suspect might  
27 have been other reasons? You have been running this  
28 business for a long time?

29 THE WITNESS: To use a euphemism  
30 it is just the disappearance of goods.





1 MR. CAMP: Another euphemism  
2 is pilferage?

3 THE WITNESS: Yes.

4 MR. CAMP: Have you an assessment  
5 of the amount that might be involved in that?

6 THE WITNESS: Somewhere between  
7 \$40,000 and \$60,000.

8 MR. CAMP: Maybe \$50,000. And was  
9 that a recent occurrence?

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1 THE WITNESS: It happened  
2 between August 31st and February the 28th.

3 MR. CAMP: Between August 31st  
4 and February 28th?

5 THE WITNESS: That is assuming  
6 the first inventory was correct.

7 MR. CAMP: And it ended at  
8 February 28th, did it, or do you know that?

9 THE WITNESS: Pardon?

10 MR. CAMP: Did it end in  
11 February or do you know that?

12 THE WITNESS: We didn't get the  
13 auditor's report because it takes a couple of  
14 months. We had it about the 20th of April  
15 and we sat around the office until quite late  
16 that night trying to get our finger on what  
17 had happened.

18 Here again, this is only speculation  
19 on my part, but I felt that it fell in the area  
20 of paperback books.

21 MR. CAMP: The pilferage was  
22 paperback books?

23 THE WITNESS: Yes.

24 MR. CAMP: To the amount of  
25 \$50,000?

26 THE WITNESS: Yes.

27 MR. CAMP: Could you ballpark  
28 the number of books that would amount to?

29 THE WITNESS: Approximately  
30 100,000.







1 MR. CAMP: 100,000?

2 THE WITNESS: Yes.

3 MR. CAMP: As a result of that  
4 assessment of your circumstances, that is a pretty  
5 good assessment because you know the business?

6 THE WITNESS: Yes.

7 MR. CAMP: Did you find any  
8 evidence that your assessment was right, or do  
9 you know whether or not your successors found  
10 any evidence?

11 THE WITNESS: As soon as we  
12 found out -- as soon as we got the statement off,  
13 we immediately put in full-time uniformed  
14 security guards. Whether it has been a deterrent  
15 or not, I don't know.

16 MR. CAMP: So far as you know,  
17 no charges were laid?

18 THE WITNESS: We have no ---

19 MR. CAMP: The thieves were  
20 never caught?

21 THE WITNESS: We have no proof.

22 MR. CAMP: How long did you  
23 operate this business, how long were you the  
24 owner-operator?

25 THE WITNESS: I have owned it  
26 since 1942.

27 MR. CAMP: Did you have any  
28 similar occurrence?

29 THE WITNESS: No.

30 DR. JEANNERET: I have been





1       impressed by the fact that this kind of business  
2       seems to be so homogeneous. Did negotiations  
3       to purchase the critical information presumably  
4       have to be verified for the purchaser which is  
5       the gross sales period? That is all. I was  
6       wondering if your year-end, February 28th audited  
7       statement would have figured very largely beyond  
8       proving of sales in the negotiations to sell?  
9       Am I correct in my assumption here?

10               THE WITNESS:   That the ---

11               DR. JEANNERET:   Your profit  
12       and loss is of less importance than your gross  
13       sales?

14               THE WITNESS:   Certainly the net  
15       profit of the company is an even more important  
16       factor.

17               DR. JEANNERET:   When we were  
18       listening to Mr. Molasky we were certainly led  
19       to believe -- I can understand why -- that the  
20       gross sales would be the best bench mark for the  
21       worth of a company of this kind. There would be  
22       physical assets, of course, as well, but they  
23       would not be so significant. The owner of a  
24       firm like this, a business like this, would have  
25       a pretty reasonable idea what his margin might  
26       reasonably be expected to be and, in this connection,  
27       since calculations           of P & L did enter  
28       into it, I am curious to know whether or not  
29       in retrospect you feel that you are able to  
30       negotiate a selling price that, from your standpoint,





1 was entirely satisfactory?

2 THE WITNESS: Well, I don't  
3 think you ever get as much for something as you  
4 would like to get.

5 DR. JEANNERET: No.

6 THE WITNESS: But we got  
7 about eight years' profit after that, the  
8 multiple that is, that was in that neighbourhood.

9 DR. JEANNERET: I am curious to  
10 know where a possible 100,000 paperbacks could  
11 be disposed of in your own estimation. How would  
12 they ultimately be turned into sold merchandise?  
13 Would they go through dealers in the usual  
14 channels, or would it be just a loophole in the  
15 bookkeeping and reporting of deliveries?

16 THE WITNESS: There are all  
17 kinds of different ways it can be disposed of.  
18 The two main areas that I would say where it  
19 could occur is in the receiving department, and  
20 that is to say, you get a shipment of 5000 books  
21 and the receiver signs for 5000 books, and one  
22 thousand is thrown back in the truck.

23 MR. CAMP: The thieves organize  
24 that?

25 THE WITNESS: It can be your  
26 own employees who are taking books out of the  
27 agency and these books can be disposed of anywhere  
28 in North America. They can be packaged and  
29 shipped to the United States or go to a place  
30 1000 miles away.







1 MR. CAMP: In regard to that, are  
2 your employees bonded?

3 THE WITNESS: Yes.

4 MR. CAMP: You have insurance  
5 against that?

6 THE WITNESS: Not that kind  
7 of theft, because we can't prove it.

8 MR. CAMP: If you can, does the  
9 insurance cover it?

10 THE WITNESS: If we can say  
11 Jack so and so and Bill so and so we know and  
12 can prove that they did this, we could collect.

13 MR. CAMP: So the amounts you  
14 show against insurance, part of that is for  
15 bonding ---

16 THE WITNESS: None of that is  
17 for having someone bonded. We had some small  
18 losses of cash through the old routine of  
19 drivers collecting cash and not reporting it.  
20 We are in the process of trying to collect  
21 that from the bonding company because, here we  
22 are dealing with an individual.

23 DR. JEANNERET: Is the system  
24 of distribution in this business something which  
25 lends itself to this particular kind of abuse  
26 where the losses you might suffer through pilferage  
27 could be compounded by leading to torn covers  
28 being returned to you for credit for the pilfered  
29 stock?

30 THE WITNESS: Right.





1 I think I understand what you are referring to  
2 and I am not sure it happened in time. You said  
3 you came to the conclusion that since there is  
4 no longer such a thing as territorial rights  
5 any more, anyone could sell anywhere. You are  
6 referring to a conclusion you have reached, are  
7 you, based on the very recent developments in  
8 the Kitchener area with respect to distribution  
9 of TV Guide and that has contributed to your  
10 decision to sell, your willingness to sell?  
11 I am asking you. I am not telling you.

12 THE WITNESS: Well ---

13 DR. JEANNERET: I am not sure  
14 what you meant by this statement.

15 THE WITNESS: Well, I was trying  
16 to reply to Mr. Holland's question to me about  
17 raiding and I said there was no such thing as  
18 territorial rights any more. There used to  
19 be years ago, but there is not today.

20 DR. JEANNERET: And the evidence  
21 that there is no such thing as territorial  
22 rights, I can think of the development in  
23 Kitchener respecting Triangle. What else?

24 THE WITNESS: Well, basically,  
25 the thing started with paperback books.

26 DR. JEANNERET: I see.

27 THE WITNESS: You see, paperback  
28 books, with the advent of paperback books, the  
29 newsstand sales, the sales to geographical  
30 wholesalers was made through the same national





1 distributors, by and large, that handle magazines.  
2 That was a natural vehicle for these sales.  
3 Most paperback book publishers reserve the right  
4 to supply book stores, department stores, various  
5 other accounts they supply directly. They reserve  
6 the right to do that and they continue to do that.  
7 That business is constantly expanding. I don't  
8 have the figures in front of me, but five years  
9 ago, probably direct sales of paperback books  
10 accounted for, say, 20 per cent and newsstand  
11 sales, 80 per cent. The last projection I saw  
12 was that in 1971 the sales through direct,  
13 direct sales and sales to geographical wholesalers  
14 would be about a 50/50 split.

15 DR. JEANNERET: This increase  
16 to 50 per cent of direct sales would be through  
17 bookstores, for the most part?

18 THE WITNESS: It has gone farther  
19 than that.

20 DR. JEANNERET: How about college  
21 stores?

22 THE WITNESS: College stores,  
23 chain accounts, there are all kinds of people  
24 who can buy books direct.

25 DR. JEANNERET: Did you sell  
26 the University of Western Ontario?

27 THE WITNESS: I am glad you  
28 asked me that because I spent a great deal of  
29 time when I first went to London in setting up  
30 a whole bookstore in the University of Western Ontario.







1 It was a beautiful store.

2 DR. JEANNERET: Would you explain  
3 what you mean by "setting up"?

4 THE WITNESS: I forget how many  
5 books were put in there, but we put in display  
6 racks, a wide variety of books that would appeal,  
7 the types that they wanted. We held that account  
8 for about six months and then first one publisher  
9 went direct and as soon as one goes direct, the  
10 rest say "We have to be competitive", and they  
11 go direct.

12 DR. JEANNERET: And am I correct  
13 in assuming your discount on this service was  
14 30 per cent and they quoted 40 per cent?

15 THE WITNESS: Right.

16 DR. JEANNERET: And you would,  
17 understandably, to use the words of Mr. Romanez,  
18 "fight these prices", that is to say, you would  
19 protest them?

20 THE WITNESS: Right. Sometimes  
21 quite vigorously, but sometimes you are  
22 presented with a fait accompli and they can  
23 match even the North American distributor.

24

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1 DR. JEANNERET: Just one other  
2 question on that. When you were servicing the  
3 University of Western Ontario, as you are very  
4 well aware, a substantial proportion of prescribed  
5 reading lists are now in the form of paperbacks.  
6 This requires specific orders from the bookstore  
7 concerned for specific quantities of specific titles.  
8 What was your practice -- to report always and follow-  
9 up and get back orders and so on or would you  
10 normally say, "Cannot supply" or supply if you  
11 could?

12 THE WITNESS: We felt that we  
13 gave them good service within the bounds of what  
14 we had in our own warehouse. As a matter of fact  
15 we opened up a second educational room which was  
16 quite substantial. We were able to induce the  
17 educational business but as I say the publishers  
18 themselves feel this year that it is going to be  
19 about 50 per cent dealers and 50 per cent direct.

20 DR. JEANNERET: What did you do  
21 about orders for books which you did not have  
22 in your own warehouse in this case?

23 THE WITNESS: I would order them  
24 from the publisher.

25 DR. JEANNERET: In other words, you  
26 had a back-order system or not-yet-published  
27 system?

28 THE WITNESS: Or no Canadian rights.

29 DR. JEANNERET: You actually did  
30 work on no Canadian rights?





1 THE WITNESS: Well, we have to report  
2 that. We have to do that if there is no Canadian  
3 rights for the book they require.

4 MR. CAMP: I assume one of the  
5 principal reasons though, in this business of  
6 a publisher making his own arrangements, you didn't  
7 really have enough clout?

8 THE WITNESS: Yes. I don't know, I  
9 should qualify that a bit. You see, the North  
10 American distributor, who is the person with whom  
11 we deal, depends on the terms of the contract which  
12 he has with the actual publisher. You heard  
13 Mr. Lichtenberg say this morning that they do  
14 not make a practice, in fact they have been one  
15 company which has really tried to steer the business  
16 towards the wholesale distributors.

17 DR. JEANNERET: Towards the --?

18 THE WITNESS: Towards the wholesale  
19 distributors.

20 MR. CAMP: Well, I can merely assume,  
21 Mr. Halliley, that the principal reason was that  
22 the distributor or the publisher felt it would make  
23 not much difference to him whereas if you have  
24 a substantially larger organization it would make  
25 a considerable difference?

26 THE WITNESS: Quite right.

27 DR. JEANNERET: Do jobbers enter  
28 into the picture at all other than the national  
29 distributors and their representatives in Canada?  
30 My question takes this form: Did you encounter







1 competition from jobbers based either in Canada  
2 or in the United States who were willing to supply  
3 your customers in competition with you by securing  
4 their books from the national distributors  
5 presumably in the United States, from publishers  
6 in the United States?

7 THE WITNESS: Yes.

8 DR. JEANNERET: Was this significant?

9 THE WITNESS: I didn't feel that it  
10 was in our area but we don't really have any  
11 way of knowing because we don't ever see the order  
12 so we don't know.

13 DR. JEANNERET: You are short-circuited  
14 out of the supply channel?

15 THE WITNESS: Yes.

16 THE CHAIRMAN: Mr. Halliley, in  
17 connection with your statement, there is no such  
18 thing as territorial rights, I would like to explore  
19 it a bit further with you than what Dr. Jeanneret  
20 has.

21 I notice in the agreement, Exhibit  
22 No. 7 which you signed, there is a definition of  
23 the territorial rights which are set out in a  
24 certain way so that to some extent you recognize  
25 in part of this agreement that there were certain  
26 territorial rights at that time?

27 THE WITNESS: Well, I must admit  
28 that by the time that agreement was put together  
29 we had left it in the hands of the solicitors and  
30 it was pretty late at night and I signed it





1 and evidently Mr. Wyrzykowski and Mr. Brown  
2 who was also representing us were satisfied.

3 THE CHAIRMAN: It says:

4 " (g) that the Company carries on  
5 the business of the wholesale distribution  
6 of magazines, periodicals and paper-  
7 back books in that part of  
8 southwestern Ontario outlined in black  
9 on Schedule 'A' attached hereto  
10 (hereinafter called 'the Territorial  
11 Rights') as at the date hereof.  
12 (h) that you will take no action  
13 to terminate any of such Territorial  
14 Rights."  
15

16 Before you signed this document, over what period  
17 of time had you negotiations?

18 A. Mr. O'Donnell asked me that  
19 and I couldn't remember the exact dates so if you  
20 don't mind, I wrote them down.

21 The first meeting I had with  
22 them was, we had a Fall sales meeting in Hamilton,  
23 I think it was in the Fall of 1969 and I believe  
24 that Mr. Cosgrove, who was at that time general  
25 manager of Metro Toronto News called me and said  
26 that Mr. Allan Molasky would like to meet me and  
27 we went out to dinner and he asked me if I was  
28 interested in selling. I said no. At that time  
29 I was not. I still felt that London had a long way  
30 to go. London has never reached the potential that





1 I felt that it should, the margin of profit was not  
2 what the industry average is and I wanted to see if  
3 I could do better with it. I should explain, when  
4 I took the business over it was losing money.  
5 I was not interested in selling at that time but  
6 the next meeting I had was in Florida at the  
7 convention down there. I was attending as a delegate  
8 from our own Association.

9 DR. JEANNERET: When was this?

10 THE WITNESS: That was the last week  
11 in April.

12 THE CHAIRMAN: April of this year?

13 THE WITNESS: Of this year and I  
14 believe it was Mr. Flegel, Mr. Flegel and I got  
15 along very well and I found that he and the  
16 Molasky organization were more than willing to become  
17 good members of the Periodicals Distributors of  
18 Canada and anything I asked him to do was done.  
19 He and I became very good friends and in the course  
20 of the conversation with him he said, "Are you  
21 going to the meeting in Florida?" and I said,  
22 "Yes, I am". He said, "We will have a talk when  
23 you are there". By this time I had got this  
24 statement off and I was in a much more receptive  
25 mood.

26 THE CHAIRMAN: When was it then that  
27 this discussion with Mr. Flegel took place?

28 THE WITNESS: I met in Florida with  
29 Mr. Flegel and Mr. Allan Molasky and Mr. Mark Molasky.

30 THE CHAIRMAN: Was this still at the







1 end of April?

2 THE WITNESS: Yes, that meeting started--  
3 it would be some time during the week beginning  
4 April 26th. The opening of the discussions was  
5 between April 26th and the meeting down in Florida,  
6 the last audit was complete.

7 THE CHAIRMAN: There were other  
8 meetings that you had with them?

9 THE WITNESS: The next meeting we  
10 had was at the Inn on the Park. In Florida, at  
11 this time I was much more receptive to the idea  
12 of selling and we agreed to meet in Toronto at  
13 the earliest convenience and we had a meeting on  
14 May 10th.

15 THE CHAIRMAN: Who was present  
16 at that meeting?

17 THE WITNESS: Well, there was  
18 Mr. Wyrzykowski and Mr. William Brown from, I think,  
19 it is Blake, Cassels & Graydon.

20 THE CHAIRMAN: Lawyers?

21 THE WITNESS: Yes, and a man I think  
22 by the name of John Stewart, and we met in my room  
23 on that Monday.

24 THE CHAIRMAN: Were any of the  
25 Molaskys present?

26 THE WITNESS: Oh, yes, Mark Molasky  
27 was there.

28 THE CHAIRMAN: Anyone else?

29 THE WITNESS: Later in the same day  
30 Mark Molasky was there and Charles Behrens,





1 I think he is a legal advisor to the organization,  
2 Mr. Brown, Mr. Wyrzykowski and myself.

3 Later on in the evening Mr. Peter  
4 Ridout, who was representing -- I forget the name  
5 of the firm he is with -- joined us. We couldn't  
6 come to any definite conclusion that day because I  
7 didn't own all the stock of Western Ontario  
8 Distributors and it was contingent on the agreement  
9 of the minority shareholders.

10 Mr. Wyrzykowski insisted that they  
11 would have to deal directly with the minority  
12 shareholders, that we were not going to become  
13 involved in it and we came back to London and talked  
14 to their lawyer for quite a long time and also the  
15 next morning.

16 In the meantime the convention in  
17 Calgary intervened and we did not have the next  
18 meeting until May 20th when we met in the Holiday Inn  
19 in London and Mr. Birch and Mr. Burns who between  
20 them owned the Western News Company, and who were  
21 the minority shareholders, and the company auditor,  
22 Mr. Slade, Mr. Wyrzykowski and myself were present.

23 THE CHAIRMAN: Who else on the  
24 other side?

25 THE WITNESS: This was a meeting of  
26 just Western Ontario Distributors and we got nowhere  
27 at that meeting. They would not agree.

28 THE CHAIRMAN: When did you next meet  
29 with Mr. Molasky or Mr. Flegel?

30 THE WITNESS: Well, Mr. Molasky, I don't





1 know whether he called me or called Mr. Wyrzykowski,  
2 I can't remember now, but he wanted to know the  
3 results of the meeting and we told him we had not  
4 got anywhere so he said that he would like to come  
5 up and talk to them. So we met the very next day  
6 in London at the Hunt Club and eventually came to  
7 an agreement as to what the minority shareholders  
8 were to receive and what I was to receive.

9 THE CHAIRMAN: Now, were there other  
10 discussions between May 21st and 25th with  
11 Mr. Molasky?

12 THE WITNESS: I don't recall.  
13 We met separately and what conclusion he came to  
14 with them, I don't know.

15 THE CHAIRMAN: In the course of the  
16 negotiations with Mr. Molasky in May, was there  
17 not any discussion between the two of you in  
18 relation to the Kitchener situation?

19 THE WITNESS: No.

20 THE CHAIRMAN: You did not discuss  
21 the Kitchener acquisition?

22 THE WITNESS: No.

23 THE CHAIRMAN: Did you discuss their  
24 participation in the Kitchener market at all?

25 THE WITNESS: No.

26 THE CHAIRMAN: Were you aware that  
27 Metro News had Kitchener?

28 THE WITNESS: By that time I was.

29 THE CHAIRMAN: That was before the  
30 signing of the agreement that you were aware of it?

THE WITNESS: Yes.







1 THE CHAIRMAN: That is the  
2 Kitchener kind of situation in which you were  
3 at that time. Does that have any relationship  
4 to the position you have told us which you now  
5 believe there is no such thing of territorial  
6 rights?

7 THE WITNESS: I realized that a  
8 long time ago about the Kitchener situation.

9 THE CHAIRMAN: Can you give  
10 me another example of another situation where  
11 territorial rights had been arranged in the way  
12 that the Kitchener situation was at that time?

13 THE WITNESS: I can't. Maybe I  
14 can explain it in a different way. When I first  
15 started in this business, we had a contract  
16 which was not worth the paper it was written on --  
17 it had a 30-day cancellation clause. We had  
18 a contract with each national distributor and  
19 publisher and in this contract it clearly spelled  
20 out the area that we were to service. I have  
21 not seen one of those contracts for five years.

22 THE CHAIRMAN: You haven't seen  
23 one but is it not a fact that there are territorial  
24 rights recognized by the distributors, ones,  
25 generally speaking by the wholesalers as well?

26 THE WITNESS: You are talking  
27 about magazines now or paperbacks?

28 THE CHAIRMAN: Talking about  
29 magazines.

30 THE WITNESS: For want of a





1 better term, it is an historic regional arrangement.  
2 These territories were established in the days  
3 when they were spelled out in contracts and  
4 I don't know what the situation is in the United  
5 States, but as far as I know, they have been  
6 done away with.

7 THE CHAIRMAN: So they have,  
8 in fact, existed, although they are not given  
9 the benefit of paper or contracts, but they do  
10 appear in contracts such as the one you signed?

11 THE WITNESS: Yes.

12 THE CHAIRMAN: Yes. Now, when  
13 you say you don't know of any other instance that  
14 you could give us in Canada where there has been  
15 an abridgement of territories by the distributor  
16 concerned?

17 THE WITNESS: I am trying to  
18 think of one. I know there have been differences  
19 of opinions in area sales as to certain territory  
20 and sometimes the president of the Association  
21 has tried to use his office to smooth this  
22 situation out but it does not exist -- at least  
23 I don't think it exists in law.

24 THE CHAIRMAN: Yes. Were you  
25 aware, during that period around May 20th to 25th  
26 or so, with Mr. Molasky in relation to the Kitchener  
27 matter and his father, apparently, had also  
28 solicited the other national distributors other  
29 than Triangle?

30 THE WITNESS: Had I heard that?





1 No.

2 THE CHAIRMAN: Can you tell me  
3 why you would feel, as you said -- I am just  
4 trying to get to the reasons why you say it in  
5 this connection -- why did you feel that another  
6 purchaser other than Metro News, would have  
7 difficulty in getting the approval of the  
8 national distributors? Why -- you said something  
9 about it was influenced by the Molaskys. How  
10 would that influence be used to affect that  
11 kind of approval in your mind?

12 THE WITNESS: First of all,  
13 the Molasky organization in Toronto and in  
14 Canada is located in Toronto. Geographically  
15 it is in a much better position than somebody  
16 who is operating from the Maritimes or British  
17 Columbia, or someplace else and trying to  
18 put it together. Another thing, I think, this  
19 business, if I can be excused for saying it,  
20 I feel it is years behind the times. I think  
21 that just as every other business -- well, it  
22 is the story of every business today: Consolidation  
23 is what is going on. We are faced -- 20 years  
24 ago, I don't know how many agents were in  
25 Canada, but we had a union at London. They  
26 could have put us out of business at any time.  
27 I am not being critical of unions in saying this, but  
28 it is a sore spot of small or middle-sized  
29 businessmen in bargaining with a large union,  
30 he is not in a very good situation. A big







1 organization is. They have had experience with  
2 it. They know how to handle this.

3 THE CHAIRMAN: Do I gather  
4 from what you have said that a prospective  
5 purchaser, Canadian purchaser, that is what you  
6 said, would have difficulty in getting the  
7 approval of the national distributors because  
8 of the Molasky influence? By that, did you mean  
9 ---

10 MR. SEDGWICK: He didn't say  
11 that.

12 THE CHAIRMAN: Did you say that?

13 THE WITNESS: I don't know whether  
14 I said it in those exact words or not. I think  
15 I said, I thought they would have more difficulty  
16 in getting the approval of the national  
17 distributors.

18 THE CHAIRMAN: More difficulty.

19 THE WITNESS: Yes.

20 THE CHAIRMAN: In the event that  
21 he didn't get the approval, then your transaction  
22 would not be completed with that person?

23 THE WITNESS: Yes.

24 THE CHAIRMAN: So you are not  
25 saying he would be prevented from getting the agent  
26 approval because of the Molasky influence, is  
27 that right?

28 THE WITNESS: I think they are  
29 in a better position.

30 THE CHAIRMAN: In your view they





1 would not move in any way to prevent such a  
2 transaction?

3 THE WITNESS: It is a question of  
4 who can do the best selling job to the national  
5 distributor.

6 THE CHAIRMAN: Yes. To follow  
7 that a little further along, if you have  
8 negotiations with a Canadian, for example,  
9 and the Molaskys were bidding, in that area there  
10 might be some opportunity where the influence  
11 would be greater on their part than on the  
12 Canadian part?

13 THE WITNESS: Maybe "influence"  
14 is not the right word. They own several  
15 large agencies in the United States and they  
16 know that in the United States this trend is  
17 even more accentuated than it is in Canada, the  
18 number of wholesalers is declining all the time.  
19 I think that the publishers are anxious to  
20 become more efficient all the time.

21 MR. CAMP: As of February 1970  
22 did your balance sheet show a profit, the company  
23 was operating at a profit?

24 THE WITNESS: Right.

25 MR. CAMP: And at February 28,  
26 1971 it was operating at a loss?

27 THE WITNESS: Right.

28 MR. CAMP: When you went to  
29 your meeting in Florida to meet those who were  
30 going to buy the company from you, then you did





1 know then the loss position?

2 THE WITNESS: Right.

3 MR. CAMP: Which you estimate,  
4 which one could assume was created by \$50,000  
5 in pilferage?

6 THE WITNESS: It is strictly  
7 speculation on my part.

8 MR. CAMP: You would have made  
9 some money if you had not had so much stolen  
10 from you?

11 THE WITNESS: Our August  
12 31st ledger showed a profit.

13 DR. JEANNERET: Would you disagree  
14 with Mr Lichtenberg where he said a wholesaler  
15 entering into an agreement to sell, really had  
16 nothing for sale except his physical assets?  
17 That is going a little too far, is it not?

18 You have sold more than physical assets and surely  
19 you have been paid for more. Could I ask you  
20 one question that takes that take us away from  
21 this, and this is the only question I have to  
22 ask: We have been interviewing you with  
23 regard to the particular things you had to sell,  
24 but, based on your experience as a wholesaler  
25 and particularly of paperbacks and having regard  
26 to the Commission's deep interest in the Canadian  
27 book publishing in relation to paperbacks, could  
28 you give us just a few comments very briefly  
29 on your experience with McClelland's Canadian  
30 Best Seller Series, which came and is gone and I







1       presume you call it to mind. Would you  
2       care to mention what was wrong with it and why  
3       it didn't succeed? I think we could benefit  
4       from your opinion. I don't mean a full history,  
5       but from the standpoint of the wholesaler.

6               THE WITNESS: I recall the  
7       series that you are speaking of. It is a very  
8       complex problem.

9               DR. JEANNERET: Why didn't it  
10      succeed, in your opinion, is my question?

11              THE WITNESS: Because it didn't  
12      produce books that the public wanted to buy.  
13      The selling of paperback books is a combination --  
14      first of all, there never has been a time in  
15      history when, if there is ever going to be an  
16      author since time began, now is the time to be  
17      one, because some of these paperback book publishers  
18      pay \$600,000 and \$700,000 for paperback book rights  
19      to a book for a man like Harold Robbins, shall  
20      we say, and the man who wrote Airport and Hotel.  
21      They receive tremendous sums of money for the  
22      paperback book rights to their books. This,  
23      plus the advent of the high-speed press, and some  
24      of these presses are as big as a city block,  
25      and can be operated by simply pushing a button.  
26      You can grind out 2 million, 3 million, 4 million  
27      paperback books and the cost per book goes down  
28      as you produce more books.

29              DR. JEANNERET: I am horribly  
30      aware of these things.





1 THE WITNESS: All right. Plus  
2 the publicity factor. The publicity that a  
3 publisher or national distributor puts in publicizing  
4 these books, he makes a special display, the book  
5 is generally well known and has been publicized  
6 and the author has been interviewed on television  
7 and everybody knows about it. A book like  
8 Everything you Wanted to Know about Sex, for  
9 instance, has amazing sales, simply because it  
10 has a heck of a lot of publicity and it gets a  
11 lot of publicity on television. If you put that  
12 beside a Canadian bestseller, I am not talking  
13 about you or you or I, but I am talking about  
14 the general public, he is going to buy a Harold  
15 Robbins book, an Airport or a Hotel.

16 DR. JEANNERET: I wanted to hear  
17 you say this. In effect you are saying, although  
18 the Best Seller Series did contain a very popular  
19 bestselling Canadian book, Pierre Berton's  
20 book "Klondike", you are saying that a  
21 Canadian mass market paperback series is not  
22 a viable proposition? I am not making a  
23 conclusion, but I am asking your opinion.

24 THE WITNESS: The whole technique  
25 of selling paperback books came from the United  
26 States, the display, fixtures, the idea, the  
27 whole method of selling paperback books.

28 THE CHAIRMAN: Mr. Sedgwick?

29 MR. SEDGWICK: First, Mr.  
30 Wyrzykowski.





1 THE CHAIRMAN: I have a  
2 definition of the word "clout" for the record.

3 MR. SEDGWICK: It is as old  
4 as Chaucer.

5 THE CHAIRMAN: It means a hit  
6 or cuff, especially with the open hand. (Laughter)

7 THE WITNESS: I didn't use that  
8 word. Somebody else did!

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EXAMINATION BY MR. WYRZYKOWSKI:

Q. Mr. Halliley, I only have three or four questions to ask you which I think will help the Commission in relation to some of the evidence we heard earlier. With respect to the signing of the document and the closing date of June the 11th, you were all present together, weren't you?

A. Yes. Will you rephrase the question?

Q. The principals involved were all present, that is, Mr. Mark Molaksy, Mr. Peter Ridout, myself, Mr. Brown, yourself and some representatives from the mortgage company?

A. And the Canada Permanent Trust.

Q. Did Mr. Mark Molasky read any of the documents at all, or did he just sign them?

A. I don't think so.

Q. You don't think so what?

A. In fact, I think he said at this stage, "We will leave it to the lawyers, they made it up, I will sign".

Q. He left the actual legal details to the lawyers?

A. Yes.

Q. So the signing of the cheques and so on, or documents, he just signed what





1 was put in front of him?

2 A. Yes.

3 Q. And what about yourself?

4 Say yes or no.

5 A. To what?

6 Q. Did he read the documents  
7 or did he concern himself with the signing of  
8 cheques, or did he just do as he was directed  
9 by Mr. Ridout?

10 A. He just did as he was directed  
11 by Mr. Ridout and signed.

12 Q. Do you recall if he was  
13 particularly tired that day?

14 A. Yes, he was.

15 Q. Did he read the documents  
16 or did you just sign them as directed by Mr.  
17 Brown and myself?

18 A. I did not read them, I just  
19 signed them.

20 Q. Now, again, this is just  
21 to attempt to assist the Commission. Was it  
22 not a fact, sir, that I had urged you from the  
23 very beginning of the negotiations to close the  
24 transaction earlier, as early as possible?

25 A. Pardon?

26 Q. That I had urged you since  
27 the beginning of negotiations for an early  
28 closing date?

29 THE CHAIRMAN: Is the answer to  
30 that, yes?





1 THE WITNESS: Yes.

2 MR. WYRSYKOWSKI: Q. Why had  
3 I asked you to close the transaction early?

4 A. Well because of the reasons  
5 that I have given, that the sooner we got the  
6 thing with the imminence of the White Paper coming  
7 up, and this was sort of a disagreement that  
8 we had had about leaving it until the 30th, that  
9 we did not want anyone in there until they  
10 actually owned the interest.

11 MR. WYRSYKOWSKI: I believe in  
12 cross-examination I can lead a little bit.

13 Q. Did I not urge you to close  
14 it because of the imminence of the budget?

15 A. I said White Paper,  
16 I meant budget.

17 THE CHAIRMAN: He said that before.

18 MR. WYRSYKOWSKI: I wanted that  
19 clearly before you, it was at my urging.

20 Q. With respect to the words  
21 "territorial rights" which are used in Exhibit  
22 7, I believe it is, did we not come to the  
23 conclusion that that was merely a descriptive  
24 phrase and we couldn't come up with a better  
25 phrase, as a matter of fact, you and I were quite  
26 concerned about that phrase and simply couldn't  
27 come up with another one?

28 A. Right.

29 Q. And, therefore, we used that  
30 only as a descriptive phrase?







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A. Yes.

Q. Now, there has been so much evidence about this Kitchener thing, with respect to the interference, shall we call it, in Kitchener. When you negotiated with Mr. Mark Molaksy, did he ever threaten you?

A. Never.

Q. In your negotiations did you find him aggressive?

A. No. I found him, how shall I put it -- I have said before, I have a great deal of admiration for him. It is unbelievable that a young man of 24 has so much business acumen and initiative and competitiveness. He has surrounded himself with some good people and I wish I had been as smart at 24.

Q. Competitive is going to be my next question. You did find him to be competitive, fairly competitive or uncompetitive?

A. I would say fairly competitive, in that he knew what his rights were.

Q. Now, at one point, as a matter of fact at several points during the negotiations, and I believe I was present for most of them -- the negotiations pretty well broke down, didn't they?

A. A couple of times.

Q. And did not Mr. Mark Molasky say to you at one point, when they appeared to have been shattered, words to the effect that he





1 would not interfere with whatever territorial  
2 rights you had?

3 A. That is right.

4 Q. Now, I think it might be of  
5 some interest to the Commission, I wonder if  
6 there has been a confusion of dates, May 21st  
7 to May 25th. Wasn't that a long weekend? Wasn't  
8 that the May the 24th long weekend? You were  
9 asked if there were any meetings in that interim  
10 period and I am quite sure there were not because  
11 everyone was away on vacation.

12 A. Yes, the 24th of May was a  
13 holiday and the 21st was a Friday.

14 THE CHAIRMAN: I am going back  
15 to the statement you made in regard to procedure,  
16 and I am pleased to say, in my opinion, you have  
17 adapted to the broad scope and sweep and have  
18 fared very well in phrasing your questions.

19 MR. WYRSYKOWSKI: I hope I am  
20 not asking improper questions.

21 THE CHAIRMAN: No, certainly not.

22 MR. WYRSYKOWSKI: There was  
23 a point you raised about May 21st and May 25th  
24 and I was quite closely involved in the negotiations.

25 Q. Now, this is a very small  
26 point, but in view of the fact that you had  
27 employees by the name of Jack and Bill and  
28 you used the words Jack so and so and Bill so  
29 an so, that was just an euphemism, you were  
30 not referring to anyone by any inference at all?





1 A. No.

2 MR. WYRSYKOWSKI: Those are all  
3 the questions I have, sir.

4 MR. SEDGWICK: I don't really  
5 have any now, my friend has asked the questions  
6 I had in mind.

7 THE CHAIRMAN: Surely, Mr. Sedgwick,  
8 you can think of some questions.

9 MR. SEDGWICK: My friend has  
10 already asked the questions I was going to ask,  
11 and, I might say, with far more effectiveness,  
12 as he was present and I was not.

13

14 CROSS-EXAMINATION BY MR. SEDGWICK:

15

16 Q. Mr. Halliley, you said you  
17 discovered some time, I think, late in 1970,  
18 about this pilferage, is that correct?

19 A. No, in -- late in April of  
20 1971, this year.

21 Q. Did Mr. Les Flegel of  
22 Metro tell you or warn you that he had heard  
23 that pilfering was going on in your establishment?

24 A. Yes, that is right. Nobody  
25 asked me that question, but he did.

26 Q. And told you that they had  
27 had a similar experience in Metro?

28 A. Right.

29 Q. And told you, I believe,  
30 of the steps that they had taken to stop it or







1 diminish it?

2 A. Yes.

3 Q. And what was your gross,  
4 about \$1-1/2 million?

5 A. About \$1-1/2 million.

6 Q. And you say you strongly  
7 suspect that you lost something like \$50,000?

8 A. Yes.

9 Q. We have been told that  
10 Metro's gross was about seven times yours, about  
11 \$10,5 million. So would it surprise you if their  
12 losses were of the order of \$350,000?

13 A. No, it would not surprise  
14 me a bit.

15 Q. And we are quite clear on this, that  
16 at no time prior to the negotiations, during  
17 the negotiations or afterwards, did Mark Molasky  
18 make any threats to you?

19 A. He did not.

20 Q. And as to Canadian buyers,  
21 did you name the prospective buyer to whom you  
22 were referred?

23 A. No, I did not.

24 Q. Well, I don't want to press  
25 you if you don't feel you should. Was any  
26 firm offer ever made to you?

27 A. Never.

28 Q. And do you, even now, know  
29 of any Canadian prospective buyer who might  
30 have been able to raise \$1 million to buy





1 that operation?

2 A. I don't know, I don't know of  
3 any.

4 Q. You don't know of any?

5 A. No.

6 THE CHAIRMAN: As I recall,  
7 money for these purchases was borrowed from  
8 the bank?

9 MR. SEDGWICK: Yes. I may tell  
10 you, sir, you don't borrow from banks unless  
11 you have assets. At least that has been my  
12 experience.

13 THE CHAIRMAN: Indeed!

14 MR. SEDGWICK: Thank you very  
15 much.

16 MR. HOLLAND: Mr. Chairman,  
17 I have no further questions of this witness.  
18 I know it is getting late but I would very much  
19 like to recall Mr. O'Brien, dealing with the  
20 evidence of this witness, if I may.

21 THE CHAIRMAN: How long do you  
22 think you will be?

23 MR. HOLLAND: I think he will  
24 be about two minutes.

25  
26 FREDERICK O'BRIEN, recalled

27  
28 FURTHER EXAMINATION BY MR. HOLLAND:

29  
30 THE CHAIRMAN: You have already





1        been sworn in these proceedings, Mr. O'Brien.

2                        MR. HOLLAND:    Q.   Mr. O'Brien, did  
3        you have a telephone conversation with the last  
4        witness about a week after the 25th of May, last?

5                        A. I did, sir.

6                        Q. And did he at that time  
7        advise you that he had sold his interests in  
8        Sarnia and London?

9                        A. Yes, he did, sir.

10                      Q. Did he tell you anything about  
11        the negotiations that he had with Mark Molasky  
12        in connection with such sale?

13                      A. Yes, he did, but I would like  
14        to answer the question, if I may, by making a  
15        little statement regarding this.    First of all,  
16        I was secretary of the Periodical Distributors  
17        of Canada for some years. I took sick in February  
18        of 1970, prior to our national convention in May  
19        at which time I probably would have been acting  
20        president. Under doctor's orders, I was told not  
21        to take that but Mr. Halliley and I have been  
22        friends for very many years and I, along with  
23        Mr. Bramall, who was president at the time, asked  
24        Reg if he would take on the job and he consented  
25        to do so. Now, the job of president of this  
26        Association is a very trying job and requires  
27        a lot of travelling and is a very tiring job.  
28        Mr. Halliley also had troubles in London, as  
29        he has explained and when I met with Mr. Halliley,  
30        in Calgary, it was evident to me that he was







1 extremely tired, both mentally and physically tired,  
2 there is no doubt about that. I felt quite  
3 sorry for him at the time. Whether he sold  
4 the agencies or not, I am quite sure that he  
5 would have been in a position health-wise, to  
6 have had to resign his position as president  
7 and I was very sorry that I had asked him previously.

8 So, I want to say this, that Mr.  
9 Halliley was definitely tired mentally and physically  
10 in my opinion, and I did have a conversation with  
11 him on the telephone at the time you suggested,  
12 at which time he stated to me that he was tired,  
13 that his wife, his auditor, his lawyer and everybody  
14 else, were begging him to sell, he also told me  
15 at that time that Mr. Molasky had told him that  
16 if he did not sell London and Sarnia, which was  
17 not the same as Kitchener, that he would move  
18 in against him, was the term that was used, in  
19 London and Sarnia they would move in against him  
20 and he also told me that if he sold to anybody  
21 else, they would move against the people who  
22 would buy.

23 MR. HOLLAND: I have no further  
24 questions of this witness.

25 MR. SEDGWICK: I have one.

26  
27 CROSS-EXAMINATION BY MR. SEDGWICK:

28  
29 Q. Did you hear what Mr.  
30 Halliley said under oath?





1 A. I did, sir.

2 Q. And he said precisely the  
3 opposite to what you said?

4 A. I heard that, sir.

5 Q. So we must decide who is  
6 telling the truth?

7 THE CHAIRMAN: We must decide.

8 MR. SEDGWICK: Somebody must  
9 decide.

10 Q. But the man who would have  
11 first-hand information as to any threats made  
12 by Mr. Molasky, would, of course, be Mr. Halliley?

13 A. That is correct.

14 Q. And anything that you know  
15 about the matter is completely second-hand?

16 A. I heard this from Mr. Halliley.

17 Q. It is hearsay only.

18 THE CHAIRMAN: He said who he  
19 heard it from.

20 THE WITNESS: It was not hearsay.  
21 Mr. Halliley told me that statement.

22 MR. SEDGWICK: Q. Mr. Halliley  
23 told you that Mr. Molasky had said certain things?

24 A. Yes, sir.

25 Q. So that the person who must know what  
26 Mr. Molasky said is, of course, Mr. Halliley?

27 A. That is correct.

28 MR. SEDGWICK: That is all,  
29 thank you.

30 MR. WYRZYKOWSKI: I would like





1 to ask one question.

2  
3 CROSS-EXAMINATION BY MR. WYRZYKOWSKI:

4  
5 Q. Mr. O'Brien, it is quite  
6 possible, I would suggest even probable, that  
7 to move in against them, I think those were your  
8 words, would be competitively moving in?

9 A. That is true, moving in as  
10 they had done in Kitchener.

11 THE CHAIRMAN: You are asking  
12 the witness what he means, what he thinks?

13 MR. WYRZYKOWSKI: I am suggesting,  
14 Mr. Chairman, that moving in against him could  
15 be competitively moving in.

16 THE WITNESS: What do you mean  
17 by "competitively moving in"? I don't  
18 understand.

19 THE CHAIRMAN: I think it is  
20 proper for you to ask him what his opinion is of  
21 those words. Perhaps you could do this and  
22 he could tell us what he thinks and you can  
23 also tell us what you think.

24 MR. WYRZYKOWSKI: Q. All right,  
25 Mr. O'Brien, what did you think?

26 A. I interpreted it that if  
27 he did not sell London and Sarnia, they would  
28 move into Kitchener with whatever franchises  
29 they could obtain or whatever stores they could  
30 open.







1 Q. Move into London and Sarnia?

2 A. Yes.

3 THE CHAIRMAN: Is that London

4 and Sarnia or Kitchener?

5 THE WITNESS: London and Sarnia.

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1 MR. WYRZYKOWSKI: And I take it  
2 he means that that business would remain competitive.  
3 I don't think competition has been completely  
4 destroyed in North American society yet.

5 MR. HOLLAND: My friend is making a  
6 submission or an argument at this point.

7 THE CHAIRMAN: Thank you, Mr. O'Brien.  
8 Has anyone else any questions? Can we then  
9 adjourn these proceedings for today and we will  
10 come back tomorrow at 10.00 a.m.

11  
12 ---Adjournment.

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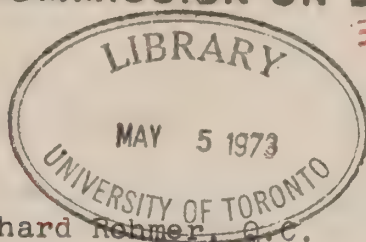
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R. E. Holland, Q.C.

Commission Counsel

A. O'Donnell

Commission Counsel

Joseph Sedgwick, Q.C.)  
and )

for Metropolitan Toronto  
News Company & Affiliates

P. H. H. Ridout, Q.C.)

-----  
Hearings held at 252 Bloor Street West,  
Toronto, Ontario, July 21, 1971

-----  
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I N D E X

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Exhibits

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No. 40	Package of information as to sales records of Metro Toronto News Company	3596
--------	--	------

No. 41	File containing documents as outlined	3598
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Toronto, Ontario  
July 21, 1971.

---The hearing commenced at 10:00 a.m.

THE CHAIRMAN: Gentlemen, can  
we proceed?

MR. HOLLAND: Thank you, Mr. Chairman.  
William Post.

WILLIAM POST, Sworn.

EXAMINED BY MR. HOLLAND:

Q. Where do you reside, Mr. Post?

A. In Toronto, Don Mills, Ontario.

Q. And you are a Canadian citizen?

A. I am.

Q. And what is your present  
position?

A. District Manager.

Q. Employed by whom?

A. McFadden-Bartell Corporation.

Q. And what district do you have?

A. I am assigned to the agencies  
in Ontario other than Windsor, Thunder Bay, Ottawa,  
Arnprior, Cornwall.

Q. Where is the head office of  
McFadden-Bartell?

A. New York City.

Q. And I understand that  
McFadden-Bartell distributed through Kitchener  
New Company in the Kitchener area up until recently?





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A. That is right.

Q. And when did McFadden-Bartell stop distributing in the Kitchener area through the Kitchener News Company?

A. On July 6th -- I am sorry, on July 2nd.

Q. Of this year?

A. Of this year.

Q. Generally, what publications are distributed by McFadden-Bartell?

A. We have 14 publications that are owned by McFadden-Bartell. This is what we call client publications or associated publishers.

Q. How about paperback books?

A. Yes, we have paperback books.

Q. Do you have a complete line of paperback books?

A. Yes, we do.

Q. What would be a No. 1 publication of McFadden-Bartell?

A. True Story.

Q. Was Kitchener News Company a satisfactory wholesaler up until you changed the franchise, if we can call it that, on July 2nd, 1971?

A. To my knowledge, yes.

Q. Incidentally, how long have you held this position, your present position?

A. 14 years in October.

Q. Now, when you say, to your knowledge, you mean it was satisfactory?







1 A. Yes, it was.

2 Q. And did that company receive  
3 the 1970 Award of Merit?

4 A. Yes, that is right.

5 Q. I think I have that particular  
6 award here, do you recognize it?

7 A. Yes.

8 Q. And that is granted for a one-  
9 year period, is it?

10 A. From one convention until the  
11 next one.

12 Q. That would be for two years?

13 A. It has been for two years, yes.

14 Q. And was it on your recommendation  
15 that the Kitchener News Company received this  
16 award?

17 A. No, it was not.

18 Q. Were you consulted in  
19 connection with the recommendation?

20 A. No, I was not.

21 Q. Were you present when the  
22 award was made?

23 A. Yes, I was.

24 Q. And at the same time that the  
25 award was made, was Mr. Hill, the then owner  
26 of Kitchener News Company, presented with a mock-  
27 up of the Kitchener-Waterloo Record?

28 A. Yes.

29 Q. I am showing you this mock-  
30 up. Is that the mock-up with which he was presented?





1 A. Yes, it looks like it.

2 Q. And the heading is, "Harold  
3 Hill Kitchener News Company Voted Canadian  
4 Wholesaler of the Year"?

5 A. That is right.

6 MR. HOLLAND: May this be the next  
7 exhibit, Mr. Chairman?

8 THE CHAIRMAN: Yes, that will be,  
9 according to my list, Exhibit 39.

10 ---EXHIBIT NO. 39: Mock-up of front page of  
11 Kitchener-Waterloo Record.

12 MR. SEDGWICK: Is the totem pole  
13 an exhibit?

14 THE CHAIRMAN: No, it is just a  
15 visual exhibit.

16 MR. HOLLAND: Q. I suggest to you  
17 that the Kitchener News Company was a most  
18 satisfactory wholesaler?

19 A. In my estimation, yes. I  
20 don't know what the company would have to say about  
21 it because I was not consulted.

22 Q. I suggest to you that obviously  
23 in the estimation of the company, since apparently  
24 they decided on this award, it was also a most  
25 satisfactory wholesaler?

26 A. Yes, I would think so.

27 Q. In fact, the most satisfactory  
28 wholesaler in Canada?

29 A. I would think so.  
30

The first part of the paper is devoted to a general discussion of the problem of the existence of solutions of the system of equations (1) for arbitrary values of the parameters  $\alpha$  and  $\beta$ . It is shown that the system (1) has solutions for arbitrary values of the parameters  $\alpha$  and  $\beta$  if and only if the condition  $\alpha + \beta = 1$  is satisfied. In this case the solutions are unique and are given by the formulas

$$x = \frac{1}{\alpha} \ln \frac{1}{1 - \alpha} \quad \text{and} \quad y = \frac{1}{\beta} \ln \frac{1}{1 - \beta}.$$

The second part of the paper is devoted to a study of the properties of the solutions of the system (1) for arbitrary values of the parameters  $\alpha$  and  $\beta$ . It is shown that the solutions of the system (1) are unique and are given by the formulas

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$$x = \frac{1}{\alpha} \ln \frac{1}{1 - \alpha} \quad \text{and} \quad y = \frac{1}{\beta} \ln \frac{1}{1 - \beta}.$$

The tenth part of the paper is devoted to a study of the properties of the solutions of the system (1) for arbitrary values of the parameters  $\alpha$  and  $\beta$ . It is shown that the solutions of the system (1) are unique and are given by the formulas

$$x = \frac{1}{\alpha} \ln \frac{1}{1 - \alpha} \quad \text{and} \quad y = \frac{1}{\beta} \ln \frac{1}{1 - \beta}.$$



1 Q. In fact the most satisfactory  
2 wholesaler in Canada?

3 A. I would think so.

4 THE CHAIRMAN: Perhaps Mr. Post  
5 could tell us, who would have made the decision  
6 as to who would be the winner of this award?

7 THE WITNESS: I believe it was  
8 made by Mr. Cerminaro in New York?

9 MR. HOLLAND: Q. What is his  
10 position?

11 A. Vice-President and Circulation  
12 Manager.

13 THE CHAIRMAN: Where is he located?

14 THE WITNESS: New York City.

15 DR. JEANNERET: Would he have any  
16 information you would not have had on which to  
17 base that decision? His information came from  
18 the results of sales which you had access to?

19 THE WITNESS: Yes.

20 MR. HOLLAND: Q. So far as you were  
21 concerned and so far as this gentleman in New York  
22 was concerned, apparently this particular wholesaler  
23 was the best in Canada?

24 A. I believe so, it would seem so.

25 Q. When did you first hear of  
26 the sale of the shares of Kitchener News Company  
27 Limited?

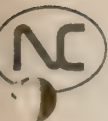
28 A. I heard the rumour on April 29th.

29 Q. And from whom did you hear  
30 that rumour?

A. It was described as a rumour mill.







1 I do not know, I could not say who it was from.

2 Q. You don't remember?

3 A. I don't remember.

4 Q. Were you given the names of  
5 the new purchasers?

6 A. I was.

7 Q. What names were you given?

8 A. Mr. O'Brien, Mr. Bramall,  
9 Mr. Smith, Gordon & Gotch and Terry Cosgrove.

10 Q. Now, you were already dealing  
11 with O'Brien in the Hamilton area?

12 A. That is right.

13 Q. Did you have any objection to  
14 him?

15 A. No.

16 Q. Did you have any objection  
17 to any of these purchasers?

18 A. No, I did not.

19 Q. Was your consent sought for  
20 this sale of stock?

21 A. Would you repeat that?

22 Q. Was your consent sought for  
23 the sale of this stock from Mr. Hill and his son,  
24 to these other purchasers?

25 A. No.

26 Q. Insofar as you know, was the  
27 consent of anyone in your company in New York  
28 sought for the sale of the stock?

29 A. I don't know.

30 Q. Now, you have told us that there





1 was a switch in Kitchener News Company Limited and,  
2 as I understand it, that switch in the Kitchener  
3 area was to Metro News Company?

4 A. That is right.

5 Q. Who made that decision?

6 A. New York.

7 Q. Did they consult you?

8 A. They did not.

9 Q. Who in New York made that  
10 decision?

11 A. I do not know. It was made by  
12 top management, in New York, but I don't know by  
13 whom.

14 Q. How were you advised of that  
15 decision?

16 A. In a memo.

17 Q. Do you have that memo with you?

18 A. I have a copy, a carbon copy  
19 from New York, which is already on exhibit.

20 Q. I notice you have a file there?

21 A. Yes.

22 Q. Does that contain correspondence  
23 regarding this matter?

24 A. No, it does not.

25 Q. May I see that?

26 A. Yes.

27 MR. HOLLAND: Mr. Chairman, the  
28 witness has produced a copy of Exhibit 24, which  
29 is a letter to Mr. Cosgrove advising that management  
30 has reviewed the request for the transfer and that





1 management feel that their interest can be served  
2 better through another source of distribution.

3 Q. And the receipt of the copy of  
4 that letter was your first advice that there was  
5 going to be a switch of wholesalers in that area?

6 A. Yes, that is right.

7 MR. CAMP: What is the date of that  
8 letter?

9 THE WITNESS: June 3rd.

10 MR. HOLLAND: Q. Did you  
11 receive any approach from Mr. Molasky or anyone at  
12 Metro News prior to the receipt of that letter  
13 of June 3rd?

14 A. No.

15 Q. Are you aware of any approach  
16 that was made by Mr. Molasky, either of the Molaskys,  
17 or by anyone else on their behalf in New York  
18 to your superiors?

19 A. No, I do not.

20 Q. You have no information as to  
21 that?

22 A. No.

23 Q. When you received the copy of  
24 that letter, did you question New York about it  
25 at all?

26 A. No, I did not. It was a top  
27 management decision.

28 Q. Could you make a decision like  
29 that on your own?

30 A. Definitely not.







1 Q. As a result of the receipt of  
2 the copy of that letter, what did you do?

3 A. Nothing until I received further  
4 instructions.

5 Q. When did you receive those  
6 further instructions?

7 A. In an inter-office communication  
8 which was dated June 7th.

9 Q. Do you have that with you?

10 A. No, I do not.

11 Q. And what was said in that inter-  
12 office communication?

13 A. That our new distributor in  
14 the Kitchener area was the Metro Toronto News  
15 Company.

16 Q. And that would be a memo from  
17 head office in New York to you?

18 A. That is right.

19 Q. And you received that when?

20 A. On June 7th.

21 MR. CAMP: Is that all it said?

22 THE WITNESS: Well, it stated in the  
23 memo to me that the last issue distributed by  
24 Kitchener News Company would be the issue that was  
25 on sale on July 2nd. The issue going on sale on  
26 July 6th would be by Metro Toronto News Company.

27 DR. JEANNERET: What about paperbacks  
28 that might be held by Kitchener News? Would they  
29 then be returned?

30 THE WITNESS: It did not say anything





1 in the letter about that, it just said that the issue  
2 going on sale as of that time,

3 MR. HOLLAND: Q. What did you do then,  
4 following receipt of that inter-office memo?

5 A. I phoned New York and asked  
6 them if there were any further instructions that  
7 I should have and they said no, that the issues would  
8 be coming in and going on sale as scheduled.

9 Q. To whom did you speak in  
10 New York?

11 A. Mr. Cerminaro.

12 Q. Did you ask him the reason for  
13 the switch?

14 A. No, I did not.

15 Q. Were you not interested?

16 A. It is a head office decision  
17 on this matter and was no concern of mine. I  
18 work for McFadden-Bartell Corporation and it  
19 was their decision to make the switch.

20 Q. So, you just do what you are  
21 told?

22 A. I just do what I am told.

23 DR. JEANNERET: Mr. Holland, would  
24 you inquire at this point as to the nature of  
25 Mr. Post's experience and what his responsibilities  
26 would be? Presumably Metro would have to be  
27 introduced to the area. Was he assuming that somebody  
28 else would do that, introducing and organizing and  
29 detailing? I am not too clear what Mr. Post does.  
30 He has not very many value judgments to make.





1 MR. HOLLAND: Q. What actually  
2 do you do? You don't make any decisions, we  
3 have heard that?

4 A. No, I do not.

5 Q. Then, what do you do?

6 A. I am assigned to certain agencies  
7 to look after the circulation, circulation problems,  
8 et cetera, from time to time.

9 Q. How are the publications, the  
10 paperbacks, physically then delivered to the  
11 Kitchener area at the present time? Are they picked  
12 up by Metro News in Toronto?

13 A. No, they are shipped to the  
14 Metro News Company in Toronto by McFadden  
15 and distributed to the Kitchener News Company area.

16 Q. Prior to that they had been  
17 shipped direct to --?

18 A. Kitchener News Company Limited.

19 Q. And then distributed by  
20 Kitchener News Company?

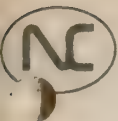
21 A. Yes.

22 DR. JEANNERET: But it must be  
23 Mr. Post's responsibility to assume to ensure  
24 that Metro knew their way around Kitchener.  
25 Possibly they could do this in several ways but  
26 would Mr. Post be right in the centre of that  
27 responsibility?

28 MR. HOLLAND: Q. Did you go  
29 down to the Kitchener area with the representatives  
30 of Metro News to see the retailers?







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A. No, I did not.

Q. You had no communication with  
the retailers at all?

A. No, the only communication I  
had with any retailers in the Kitchener area was  
on June 9th and 10th. I visited dealers in the  
Kitchener area. The reason I did was in order  
to make certain that our publications, which were  
due on sale at that time, were placed on sale  
by July 2nd.





1 Q. Was that the only purpose  
2 of your visit?

3 A. Yes.

4 Q. Did you receive any complaints  
5 from the retailers in the area at that time?

6 A. Yes, in two cases I did.

7 Q. How many retailers did you  
8 see?

9 A. 20.

10 Q. Did you ask them if they had  
11 any complaints?

12 A. I did not, because my main  
13 purpose in going in there was to see whether  
14 our publications were placed on sale.

15 Q. From whom did you receive  
16 complaints?

17 A. One was Buck's Bookstore  
18 in Galt and the bus terminal in Galt.

19 Q. What were the complaints?

20 A. They did not want to receive  
21 publications from the distributors.

22 Q. Did you report these?

23 A. Yes, by phone, to Mr. Cerminaro.  
24 He told me this matter could be straightened out.

25 Q. Have you received any  
26 requests from any of the retailers in the  
27 Kitchener area that Kitchener News Company be  
28 reinstated as the wholesaler in the area?

29 A. No, I have not.

30 Q. Do you know whether or not your





1 head office in New York received any requests?

2 A. I was told by Mr. Cerminaro  
3 in New York they had received letters, yes.

4 Q. Did he tell you how many  
5 letters?

6 A. No, he did not.

7 Q. What was his decision on the  
8 receipt of these letters and requests from the  
9 retailers?

10 A. Would you repeat that?

11 Q. You said he received letters  
12 from certain retailers requesting Kitchener  
13 News Company Limited be reinstated as the wholesaler  
14 in the Kitchener area, is that not correct?

15 A. Yes.

16 Q. Did he tell you his answer?

17 A. He didn't tell me anything.

18 Q. Did you ask him what he was  
19 going to do about it?

20 A. No.

21 Q. You didn't think that was  
22 part of your function?

23 A. That is not part of my function.  
24 That is a head office decision and it was  
25 entirely up to the company.

26 Q. Do you know the reason for  
27 this changeover of Kitchener News Company Limited?

28 A. No, I do not.

29 Q. You have never asked?

30 A. It is not part of my function







1 to ask. This decision is made in New York by  
2 top management, and that is their responsibility.

3 Q. And they have never told you?

4 A. No.

5 MR. HOLLAND: Those are all the  
6 questions I have of this witness.

7 THE CHAIRMAN: I have one question.  
8 I take it that, from everything you have said, that  
9 the McFadden-Bartell operation in Canada  
10 is one in which the publications of that firm  
11 in the United States are received in Canada,  
12 are sold in Canada, and that all the decisions  
13 that are made as to value, value decisions, all  
14 these decisions and all the administration from  
15 this point of view, all takes place in New York?

16 THE WITNESS: Yes.

17 THE CHAIRMAN: Do you know whether  
18 your firm -- I daresay you don't -- whether your  
19 firm is doing what Triangle is doing, and that  
20 is reassessing its position in the Kitchener  
21 area?

22 THE WITNESS: I do not.

23 THE CHAIRMAN: You do not know.  
24 Mr. Sedgwick?

25  
26 CROSS-EXAMINATION BY MR. SEDGWICK:

27  
28 Q. Mr. Post, at the time  
29 when Kitchener News was awarded this totem-pole  
30 trophy, the company was operated by Mr. Hill, Sr.,





1 and his son, Lou, is that correct?

2 A. It was operated by Mr. Hill, Sr.

3 I do not remember ---

4 Q. His son. Then it was operated  
5 by the Hills?

6 A. Yes.

7 Q. And then, of course, in April  
8 there was a complete change of both ownership  
9 and management?

10 A. I am sorry, Mr. Sedgwick, ---

11 Q. I said that in April of  
12 1971 there was a complete change of ownership?

13 A. That is right.

14 Q. And of management?

15 A. Yes.

16 Q. And the manager became Mr.  
17 Terry Cosgrove, is that right?

18 A. Yes.

19 Q. Who had formerly been the  
20 manager of Metro Toronto News?

21 A. That is right.

22 Q. And one of the participating  
23 owners was a rival North American distributor,  
24 Gordon and Gotch?

25 A. That is right.

26 Q. Do you know whether those  
27 factors affected the decision that was made in  
28 New York?

29 A. I am sorry, I can't answer that.

30 MR. SEDGWICK: Very well, that





1 is all I have.

2 MR. CAMP: You can't answer, or  
3 you don't know?

4 THE WITNESS: I don't know.

5 MR. CAMP: How many paperback  
6 titles do you carry?

7 THE WITNESS: Titles or publishers?

8 MR. CAMP: Publishers.

9 THE WITNESS: Five.

10 MR. CAMP: How many titles?

11 THE WITNESS: Many hundreds.

12 DR. JEANNERET: Many hundreds.

13 MR. CAMP: You exercise no  
14 judgment as to these titles you are supplied from  
15 head office?

16 THE WITNESS: No.

17 MR. HOLLAND: I have no further  
18 questions, Mr. Chairman. Thank you very much.

19 THE CHAIRMAN: Thank you very  
20 much.

21 MR. SEDGWICK: I was asked to  
22 produce certain material and I must confess I  
23 have not read it, but Mr. Romanez gave it to me.  
24 There are two files. I thought they might go  
25 in as two Exhibits. The first is at the Commission's  
26 request, Metro Toronto News Company's total gross  
27 dollar volume in 1970, approximately \$10,400,000,  
28 and total gross Canadian dollar volume, approximately  
29 \$1,120,000, or 8 per cent.

30 The next sheet, the total gross







1 dollar volume of Canadian magazines is approximately  
2 5 per cent, the total gross dollar volume of  
3 Canadian paperbacks is approximately .01 per cent  
4 excluding Harlequin. Harlequin accounts for 13.1  
5 per cent of our mass market paperback sales,  
6 about 8 per cent in dollar volume, due to the  
7 lower cover price.

8 Mr. Romanez adds, the above figures  
9 do not include Canadian titles handled through  
10 our school division.

11 And then, at the Commission's  
12 request, the publications that Metro Toronto  
13 News distributes for Capital Distributing Company,  
14 to that there is attached a list.

15 And then, I don't recall this  
16 request, but Mr. Romanez said it was made. It is  
17 the Peeping Tom Tabloid. It is nationally  
18 distributed by Ace News of New York and published  
19 by Photo Story publications of New York.

20 Then a list of publications  
21 supplied by the various national distributors  
22 and publishers and there are a great many pages.  
23 Mr. Romanez says this is as complete as possible.

24 Then the larger file ---

25 THE CHAIRMAN: We can receive  
26 that. That will be Exhibit 40.

27  
28 ---EXHIBIT NO. 40: Package of information as  
29 to sales records of Metro  
30 Toronto News Company





1 MR. SEDGWICK: As to the larger  
2 file, Mr. Romanez' file reads:

3 "As per the Commission's request,  
4 same of orders placed in the past  
5 three months with various  
6 national distributors and publishers  
7 of paperbacks."

8 There is a fat file of them. He adds:

9 "All paperback solicitations  
10 are made in Toronto by the local  
11 Canadian representatives of the  
12 national distributors and  
13 publishers.

14 "All paperback orders are  
15 placed by Mr. Jim Johnston,  
16 Book Department Manager, a Canadian,  
17 for the mass market titles and  
18 by Mr. Jim Brown, School Department  
19 Manager, also Canadian, for the  
20 school-oriented titles. They have  
21 carte-blanche to order any title  
22 and any quantity that they, through  
23 years of experience, know is  
24 required for maximum sales and  
25 minimum returns. The above  
26 procedure is routine and I (Mr.  
27 Romanez) am only consulted for  
28 advice on new lines and bestsellers.  
29 St.Louis is never contacted."

30 May I file that as the next





1 Exhibit?

2 THE CHAIRMAN: That will be  
3 Exhibit 41.

4  
5 ---EXHIBIT NO. 41: File containing documents  
6 as outlined above

7  
8 MR. HOLLAND: I believe there are  
9 a number of productions there and I believe  
10 the productions should be separately filed.

11 THE CHAIRMAN: Well, I think  
12 the first, number 40, the package of information  
13 as to the sales records, we may consider later  
14 whether we should break these down into A, B, and  
15 et cetera. The same thing will apply to Exhibit  
16 No. 41, which is paperback orders, and we might  
17 consider that subsequently, to have it broken  
18 down.

19 MR. SEDGWICK: There are a great  
20 many of them and I didn't try. Some of them  
21 are originals, I believe.

22 MR. HOLLAND: Roger Scherer.

23  
24 ROGER SCHERER, sworn

25  
26 EXAMINATION BY MR. HOLLAND:

27  
28 Q. Where is your home?

29 A. Columbus, Ohio.

30 Q. You are the sole owner of





1 Windsor News Company Limited?

2 A. That is correct.

3 Q. That is managed by Robert  
4 Scherer?

5 A. Yes.

6 Q. And he is your brother, I  
7 believe?

8 A. Yes.

9 Q. And he resides in Windsor?

10 A. Yes.

11 Q. And you are a citizen of the  
12 United States of America?

13 A. That is correct.

14 Q. Would you be kind enough to  
15 advise us as to the gross sales of Windsor News  
16 Company Limited?

17 A. \$1,305,000.

18 Q. Exhibit 3 is a map of Southern  
19 Ontario. I am sure you have had a chance to  
20 look at the map. Is the area shown attributed  
21 to Windsor News Company Limited, correctly shown  
22 on that map?

23 A. That is correct, yes.

24 Q. When did you purchase Windsor  
25 News Company Limited?

26 A. It was in March of 1970.

27 Q. From whom did you purchase  
28 this company?

29 A. Mr. J.D. Geller and his wife,  
30 and their son.





1 Q. And they were residents of  
2 Canada, were they?

3 A. That is correct.

4 Q. And citizens of Canada?

5 A. I believe Mr. Geller and his  
6 wife, but perhaps not their son.

7 Q. Do you operate any other  
8 geographical wholesalers outside of Ontario?

9 A. In the States.

10 Q. First, do you operate any  
11 others in Ontario?

12 A. No, I do not.

13 Q. What geographical wholesalers  
14 do you operate in the United States?

15 A. Columbus, Ohio, Battle Creek,  
16 Michigan, and Petosky, Michigan.

17 MR. SEDGWICK: I didn't hear the  
18 last one.

19 THE WITNESS: Petosky, Michigan.

20 THE CHAIRMAN: Would you spell  
21 that for us?

22 THE WITNESS: P-e-t-o-s-k-y.

23 MR. HOLLAND: Q. Can you give  
24 us any idea of the gross sales in these three  
25 areas?

26 A. In total?

27 Q. In total.

28 A. Roughly \$7 million.

29 Q. So that you would have total  
30 gross sales in the United States, and Canadian





1 operations, close to \$8-1/2 million?

2 A. Correct.

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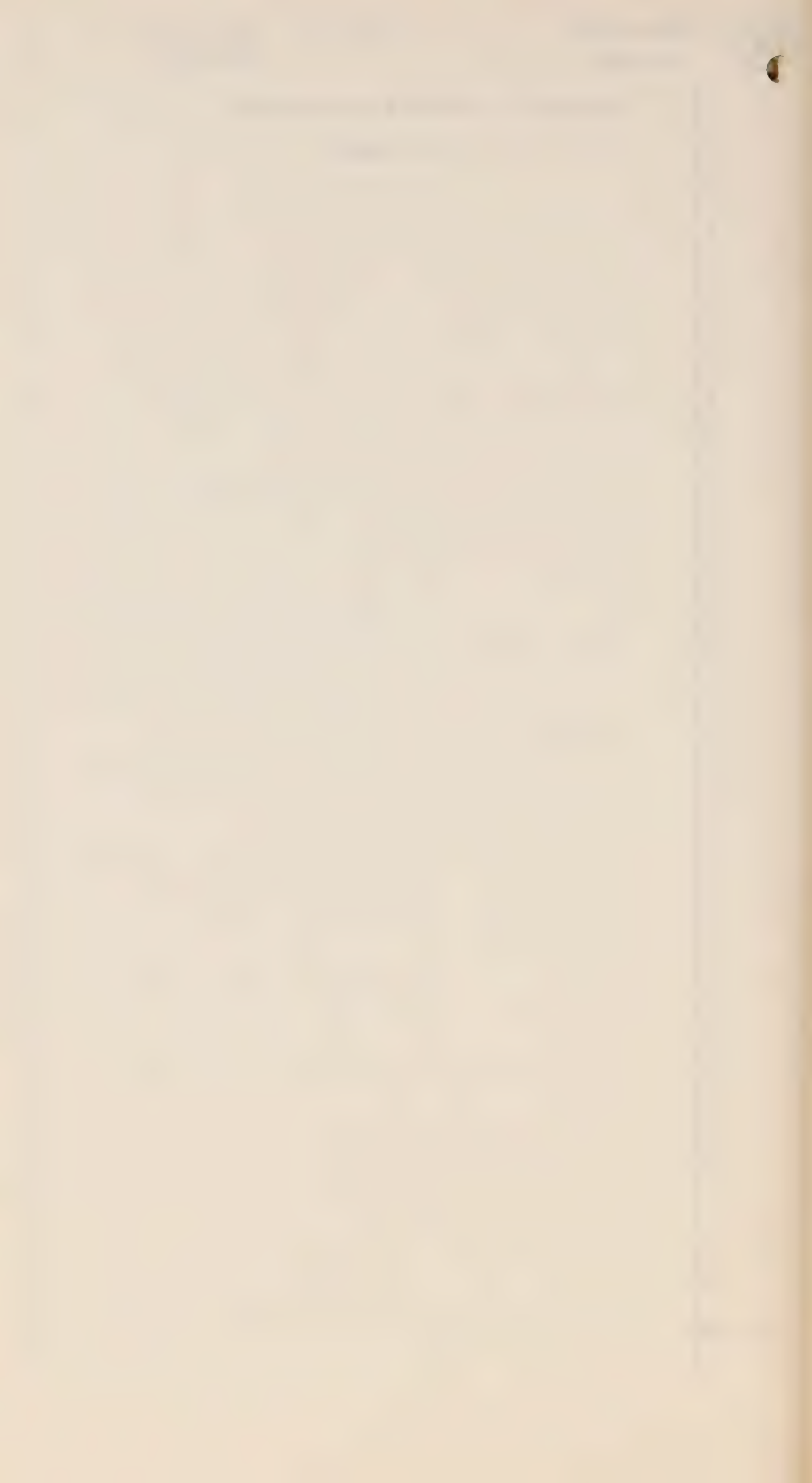
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29

30







1 Q. Now, you have told us that  
2 you purchased Windsor, I think, in 1970?

3 A. Yes.

4 Q. Was anyone else negotiating  
5 for the purchase of that area at that time?

6 A. I believe so, yes, several  
7 were interested. I can't say that they were  
8 negotiating: I should say that Mr. Geller had  
9 approached a number of people.

10 Q. Did he tell you this?

11 A. Yes, he did.

12 Q. Was one of those people  
13 Mr. Molasky?

14 A. Yes, it was.

15 Q. And since you have purchased  
16 Windsor, have there been any attempts to buy you  
17 out?

18 A. None whatever.

19 Q. And have you made any attempts  
20 to purchase any other geographical areas in Ontario,  
21 since you purchased Windsor?

22 A. Yes, I have.

23 Q. What area, or areas?

24 A. Variously described as the  
25 Kent News in Chatham.

26 Q. When were these negotiations?

27 A. I can't give the exact date  
28 of the first contact we had with Mr. Vaughan.

29 Q. That is Mr. Vaughan of Kent  
30 News Service?





1 A. Kent News Service, yes.

2 Q. He was the owner of Kent News  
3 Service?

4 A. That is correct. Mr. Geller  
5 at that point said that he had, prior to us  
6 negotiating the purchase, had had some conversation,  
7 some indication from Mr. Vaughan that he was  
8 considering retiring and he had considered an  
9 acquisition and thought that we should bear that  
10 in mind and as soon as we were organized  
11 perhaps approach Mr. Vaughan, whom, Mr. Geller  
12 said, I believe, was not in the best of health.  
13 I can't tell you exactly when that first approach  
14 was made. I just don't recall the exact time  
15 but in any event we did approach Mr. Vaughan.  
16 I called, we could not in any way get together on  
17 what price was involved and it just simply broke  
18 down and was discontinued.

19 Some time prior to June 14th,  
20 about approximately two weeks before that --

21 Q. June 14th being the effective  
22 date?

23 A. June 14th, 1971 being the  
24 effective date.

25 Q. Of the legislation?

26 A. The present legislation, yes.  
27 Approximately two weeks before that I was informed  
28 by my brother that information had reached him,  
29 that Mr. Vaughan was again considering selling out  
30 and, as a matter of fact, I believe Mr. Vaughan had





1 called my brother, asking him if we were still  
2 interested. I called and we did discuss it, we  
3 tentatively agreed on the area of price  
4 which was a compromise from what we had previously  
5 discussed and so forth.

6 I arrived in Windsor on the  
7 evening of June 14th with the intention of meeting  
8 Mr. Vaughan on the morning of the 15th and, of  
9 course, we did not meet.

10 THE CHAIRMAN: I might, for the  
11 purpose of the record and for information of  
12 counsel and Mr. Scherer, state that the legislation  
13 of which he speaks was given Second Reading last  
14 night and it is anticipated that the House in  
15 Committee of the Whole, which may happen today,  
16 will be dealing with it further.

17 I am also informed that Bill  
18 has been agreed to by all parties.

19 MR. HOLLAND: Q. How did you heard  
20 of this proposed legislation?

21 A. Well, as a matter of fact, I  
22 first heard of it from a reporter of the Toronto  
23 Telegram, who had called me just as I was leaving  
24 the office and, as a matter of fact, delayed me  
25 for some one hour, I believe. Then I arrived in  
26 Windsor that evening and, of course, it was on the  
27 news and so forth.

28 Q. So then you cancelled your  
29 further negotiations with Mr. Vaughan?

30 A. Yes, I did.







1 Q. Going back to your original  
2 purchase of Windsor News Company Limited, would  
3 you mind telling us the price that you paid?

4 A. \$450,000.

5 Q. And was that cash?

6 A. No, part cash and part financed,  
7 carried by Mr. Geller.

8 THE CHAIRMAN: Could you break that  
9 down?

10 THE WITNESS: \$150,000 cash and  
11 \$300,000 by financing.

12 THE CHAIRMAN: Before you proceed,  
13 might I ask one more question? The cash,  
14 Mr. Scherer, was this cash that you produced from  
15 your own resources or did you borrow from the bank  
16 in Canada?

17 THE WITNESS: I produced it from my  
18 own resources and American funds were paid.

19 MR. HOLLAND: Q. As a matter of  
20 interest, what was the price being discussed  
21 for the purchase of Chatham?

22 A. It ranged from \$85,000 to  
23 \$135,000, I believe, I think that was the range.

24 Q. Now, when you purchased  
25 Windsor, I assumed that there were certain fixed  
26 prices that were being paid by Windsor to the  
27 North American distributors or the publishers for  
28 periodicals and paperbacks, certain rates had  
29 been fixed?

30 A. Yes.





1 Q. Did you make an effort to better  
2 those rates after purchasing Windsor?

3 A. Certainly.

4 Q. You did?

5 A. Certainly.

6 Q. Did you succeed?

7 A. In some instances, yes.

8 Q. You have been here listening  
9 to the evidence for the last few days, I believe,  
10 Mr. Scherer?

11 A. Yes.

12 Q. And we have heard some  
13 percentage figures on paperbacks. If I remember  
14 between 40 and 50 per cent?

15 A. That is correct.

16 Q. Depending on the distributor  
17 or depending on the publisher?

18 A. Yes, that is right.

19 Q. Now, what sort of rates are  
20 you now getting and what sort of rates was  
21 Windsor getting before you purchased it?

22 A. Windsor, Mr. Geller had been  
23 very active in the industry and had been a close  
24 associate of mine for years, so on the whole he  
25 was receiving 46 per cent on books. There were  
26 some lines -- and I can't name the lines at the  
27 moment -- there were some that he was getting  
28 44 but we were able to move them up to 46.  
29 I think there was one Canadian publisher at  
30 40 per cent and we tried to move him up.







1 Q. And you were able to do  
2 nothing?

3 A. Nothing.

4 Q. Did you move all the paperbacks  
5 up to 46 per cent?

6 A. Yes, they are 46.

7 Q. With the exception of the  
8 Canadian publisher, and that is 40?

9 A. Right, I should say that a  
10 couple of them we do receive 50, minor lines.  
11 I think that is not an exception. I believe that is  
12 the standard discount.

13 Q. Did you personally go to  
14 New York or wherever it may be, to try to arrange  
15 these better prices?

16 A. No, I did it by phone.

17 Q. And, as part of the selling  
18 job, did you use your American sales -- did you  
19 say --

20 A. Not in the sense that you mean.

21 Q. Well, in what sense did you use  
22 the American sales?

23 A. I said that we were presently  
24 a wholesaler receiving these discounts in the  
25 present area and I can see no reason for one  
26 wholesaler receiving two different schedules of  
27 discount, particularly when we were bringing our  
28 expertise to the organization, as you might put it.

29 Q. So, you, in effect, said  
30 "I am getting so much in such and such an area in







1 the United States. I should be able to get that  
2 in Windsor"?

3 A. That is correct.

4 Q. And they agreed with you?

5 A. In most cases, they did.

6 Q. I gather from what you have  
7 said that it is more profitable for you to  
8 distribute paperbacks published or distributed by  
9 North American distributors as opposed to paperbacks  
10 distributed by Canadian distributors?

11 A. I don't believe I said that.

12 Q. You are getting an extra  
13 6 to 10 per cent?

14 A. Yes, I did say that, yes.

15 Q. So, it would be more profitable  
16 for you obviously?

17 A. Gross profit.

18 MR. HOLLAND: I have no further  
19 questions, Mr. Chairman.

20 MR. CAMP: In the figure that you  
21 gave, Mr. Scherer, for gross sales, \$1,305,000,  
22 is that in your first year of operation of the  
23 company?

24 THE WITNESS: That is correct.

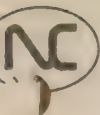
25 MR. CAMP: Can you tell us what the  
26 previous year's gross sales were?

27 THE WITNESS: \$1,221,000.

28 MR. CAMP: Did the company make a  
29 profit in that year?

30 THE WITNESS: In 1969? Yes.





1 MR. CAMP: That is 1969, is it?

2 THE WITNESS: Yes.

3 MR. CAMP: Will you make any  
4 profit this year?

5 THE WITNESS: Yes, I will, not as  
6 much I might say.

7 MR. CAMP: The more you make  
8 the less you keep?

9 THE WITNESS: They had a line in 1969  
10 with some kind of write-off.

11 MR. CAMP: It was a special situation?

12 THE WITNESS: Right.

13 MR. CAMP: You would have no complaint  
14 about your profit then for your first year's  
15 operation?

16 THE WITNESS: Not really.

17 MR. CAMP: You operate, I think,  
18 four wholesaling areas?

19 THE WITNESS: Yes.

20 MR. CAMP: Have you encountered any  
21 problems that you would consider to be abnormal  
22 with regard to theft and pilferage in your operation?  
23 I don't know, have you been here the last few  
24 days?

25 THE WITNESS: Yes, I have listened  
26 to it. I have not encountered anything of that  
27 magnitude either in percentage or dollars.

28 MR. CAMP: That is percentage of your  
29 gross profit?

30 THE WITNESS: No.





1 MR. CAMP: Had there been any  
2 problems of that kind by the previous owner in  
3 Windsor, or do you know?

4 THE WITNESS: He indicated to me that  
5 it did exist, yes, or at least he thought it did  
6 exist. We believed -- well, at that time we  
7 know that something did.

8 MR. CAMP: In Windsor?

9 THE WITNESS: Yes, one routeman,  
10 I believe, was discovered up to some shenanigans  
11 and was obviously discharged.

12 MR. CAMP: Do you know how that was  
13 disposed of? I don't mean the merchandise but  
14 the routeman? Was there a prosecution as a result  
15 of it?

16 THE WITNESS: Not a prosecution,  
17 I am sure of that. I could get that information  
18 but I am not sure at this point whether the bonding  
19 company reimbursed us or just how it was handled  
20 but I can get that.

21 MR. CAMP: Is he still employed  
22 with your company?

23 THE WITNESS: No.

24 MR. CAMP: If you could, Mr. Scherer,  
25 I would like to hear what the disposition was of  
26 it. I don't care who the man was I just wondered  
27 how it terminated. Perhaps, if I may, could  
28 you give us the scenario as to how this practice  
29 operates, that is, how many ways in which theft  
30 and pilferage occur? I realize someone takes







1 something from the warehouse or from the truck.

2 Then, what happens?

3 THE WITNESS: The common way, of  
4 course, is to sell it to a retailer at a discount.

5 There generally has to be collusion involved.

6 It is sometimes within your own organization and

7 also at the retail level. They must have enough

8 copies and either they do it with a present

9 retailer who would buy it at a discount and then

10 return it through his returns and receive full

11 price and we would pay and literally make a

12 profit on just returning it.

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1                   Then the other most common method  
2           is, they develop their own retail associates and  
3           sell to them. That, of course, we can define  
4           generally, more readily than we do the other.

5                   MR. CAMP:    They would be retail  
6           accounts ---

7                   THE WITNESS:   The retail account  
8           could, conceivably and, as a matter of fact,  
9           does contact the route man and say "I would like  
10          to receive periodicals from your company" and could  
11          very well, on his own -- that is generally the way  
12          it starts.   Some retailer solicits the route man  
13          and says he would like to buy a specific periodical  
14          or a specific title and he sells it to him for  
15          cash and we generally are unable to detect it.  
16          It is a snowball-type of thing.

17                  MR. CAMP:    So that this would  
18          involve -- I think you used the words "conspiracy  
19          and collusion" -- it would mean employees or  
20          representatives of a wholesaler probably, and  
21          a retailer or retailers?

22                  THE WITNESS:   In the case of  
23          it being a return. In the case of a retailer  
24          requesting service, he could very well be  
25          getting it from the company. If a retailer  
26          called the office and said he didn't get his  
27          magazines that day, we discover what is going on.

28                  MR. CAMP:    So would I be right  
29          in assuming, or maybe you could find out for me,  
30          the particular case you mentioned, involving





1 the route man, you, presumably, not only had  
2 evidence of the route man's involvement in the  
3 affair, but you would have had evidence and  
4 knowledge of his clients?

5 THE WITNESS: Perhaps not.

6 MR. CAMP: Perhaps so?

7 THE WITNESS: Perhaps so, yes.  
8 It is possible. I could find out, but generally  
9 it is detected at the warehouse rather than the  
10 retailer.

11 MR. CAMP: No question, I agree  
12 with that.

13 Do you know of any -- do you have  
14 any information, or have you ever heard anything  
15 about books being stolen and being fenced across  
16 the border?

17 THE WITNESS: No.

18 MR. CAMP: Would it be reasonable  
19 to assume most of this material would be stolen  
20 material which would be disposed of within the  
21 geographical wholesalers territory?

22 THE WITNESS: Certainly in the  
23 volume we know of.

24 DR. JEANNERET: I don't know how  
25 we would get it across the border.

26 MR. CAMP: I didn't suggest that.

27 DR. JEANNERET: If there is  
28 a copyright problem to stop it?

29 MR. CAMP: There is no copyright  
30 problem to hang up a crook. I don't think a copyright







1 problem would hang up a crook. I hope you can  
2 remember what I asked you to do further to this  
3 testimony?

4 DR. JEANNERET: I only have really  
5 one question to ask. Do you sell the University  
6 of Windsor?

7 THE WITNESS: Yes.

8 DR. JEANNERET: Do they buy their  
9 paperbacks from you, so far as you carry them?

10 THE WITNESS: They have gone  
11 pretty well full-circle. At one time, as a matter  
12 of fact ---

13 DR. JEANNERET: Give us the circle,  
14 if you will.

15 THE WITNESS: Mr. Geller initiated  
16 it, the paperback installation in the University,  
17 installed the books in the racks and so forth.  
18 As a result of that, they, of course, became  
19 familiar with the availability of the discount  
20 of 10 per cent and began to order, at least when  
21 they had adoptions, large quantities direct from  
22 the publisher, taking advantage of the additional  
23 10 per cent on large orders, and then ordering  
24 smaller quantities from us for fill-ins and so on.  
25 It then reached a point where they went direct  
26 with most publishers and we were pretty well  
27 eliminated from the supply, at least my estimation  
28 of the problem is that as the publishers took on  
29 more retailers to supply, which you heard yesterday,  
30 with a 50/50 proposition, they had very few, and





1 it was excellent service. As they have  
2 increased the number of accounts, they find  
3 their service, perhaps in many cases, is not  
4 as good as ours. The University, I am sure,  
5 has found it is not quite as fast from the  
6 publishers as they got it earlier. Now, they  
7 are back with us again.

8 DR. JEANNERET: This is one of  
9 the big problems of universities, as you well  
10 know.

11 Do you offer the university  
12 a fairly comprehensive, special order service  
13 recording service and volume service?

14 THE WITNESS: Yes.

15 DR. JEANNERET: N.C.R. and so on?

16 THE WITNESS: From the Windsor  
17 Board of Education, they have an actual printout  
18 several pages long and they supply us with  
19 this in advance. We order them in advance  
20 because we know in advance what we are going to do.

21 DR. JEANNERET: You supply the  
22 Windsor Board of Education, presumably, at 30  
23 per cent and the University at 30 per cent?

24 THE WITNESS: Yes.

25 THE CHAIRMAN: Mr. Scherer,  
26 I am going to make one or two comments after.  
27 I must say that I was pleased in one sense that  
28 you produced your own cash on this transaction.  
29 You will find out subsequently why I say that.

30 I wondered if the operations





1 which you have in the United States are carried  
2 out, three of them, are they carried out under  
3 different or separate corporate compartments?

4 THE WITNESS: Separate, corporate  
5 structure.

6 THE CHAIRMAN: I notice that,  
7 even though they are under separate corporate  
8 compartments, you consider yourself to be one  
9 wholesalers. That is what you told your  
10 suppliers when you went out to negotiate?

11 THE WITNESS: That is correct.

12 THE CHAIRMAN: So you regard  
13 yourself as one wholesaler, equally in all  
14 compartments?

15 THE WITNESS: Yes.

16 THE CHAIRMAN: Thank you.

17 THE WITNESS: May I make a  
18 comment? I may say I operate the same in  
19 every town, the management is totally independent.

20 MR. SEDGWICK: May I ask one  
21 question, Mr. Chairman?

22 MR. CAMP: Do you know Mr.  
23 David Lichtenberg of Triangle Publications?

24 THE WITNESS: Yes, I do.

25 MR. CAMP: When you purchased  
26 the Windsor operation, did you inform him of  
27 your purchase?

28 THE WITNESS: Yes.

29 MR. CAMP: At what time did you  
30 inform him?







1 THE WITNESS: Well, it was well,  
2 well, in advance of the actual consummation of  
3 the purchase, because, at one time, my negotiations  
4 with Mr. Geller, sort of held up, because some  
5 other people had entered the picture, and it was  
6 just our agreement that he, if he could secure  
7 a better price from another source, I was most  
8 happy to have him do it. My arrangement with  
9 Mr. Geller is as a very personal friend and  
10 his wife is a very good friend of ours. His  
11 health is not good and that was his reason  
12 for wanting to sell.

13 DR. JEANNERET: Where there  
14 are multiple-sided negotiations of this kind  
15 going on, you wouldn't know, but would you assume  
16 each of the negotiators had various lines with  
17 all the national distributors and say, "I am  
18 negotiating for X"? What is your view on this?  
19 It is an opinion I think I am asking for from  
20 your experience.

21 THE WITNESS: I think it is  
22 evident here from the testimony that if you  
23 don't do that, you could very well be buying  
24 air. It is basically what it amounts to.  
25 Historically, that is the case. Before I would  
26 fork over \$450,000, or commit myself for that  
27 amount to Mr. Geller, I would be certain I was  
28 going to at least have the franchise to start  
29 off, or the ability to get or obtain them for  
30 myself. I would want to be certain. That is sort





1 of historical, you know, the people in Kitchener  
2 indicated that, at least the purchasers.

3 MR. CAMP: You are a wholesaler  
4 in the same lines in all your operations?

5 THE WITNESS: Yes.

6 MR. CAMP: If you will permit  
7 the expression "franchise" ---

8 THE CHAIRMAN: Mr. Scherer uses  
9 it himself.

10 MR. CAMP: How did you speak to  
11 Mr. Lichtenberg?

12 THE WITNESS: By phone and later  
13 in New York City I discussed with him and other  
14 national distributors at that time, the negotiations  
15 that were going on and they were presently being  
16 held up. Generally, when you approach national  
17 distributors in this respect, you receive a  
18 commitment and by and large, they will stick with  
19 that commitment. If another bidder enters the  
20 picture, generally they will hold off until they  
21 have had some indication that our negotiations  
22 have broken off or something. So that, in  
23 New York, I mentioned to them that our negotiations  
24 were being held up because Mr. Geller received  
25 an offer, or an indication of an offer from  
26 another party and I think it was at that time,  
27 Mr. Molasky.

28 DR. JEANNERET: You are not  
29 suggesting, surely, there cannot be free  
30 negotiating on the part of four or five negotiators,







1 each being assured by the national distributors  
2 they will have the goodwill of the distributors  
3 if they succeed in negotiating? This cannot  
4 happen at the same time?

5 THE WITNESS: I think they can,  
6 but I think the one that has the upper hand,  
7 so to speak, is the buyer -- the seller -- I am  
8 sorry. Generally, he makes it known. That is  
9 the nature of the business, a close, personal  
10 relationship, at least in my estimation, does  
11 require a certain amount of expertise to handle  
12 a number of distributors.

13 DR. JEANNERET: I was thinking  
14 it would have been a kind of conditional offer  
15 to purchase, conditional on the national  
16 distributor's approval or something like that.

17 THE WITNESS: In years past  
18 that was always in the contract. In agencies  
19 I purchased prior to this, it would have been  
20 right in there.

21 THE CHAIRMAN: Why isn't it in  
22 there now?

23 THE WITNESS: I think maybe because  
24 of the change of the industry as a whole. It is  
25 more liberal.

26 THE CHAIRMAN: Is it a change  
27 of law in the United States?

28 THE WITNESS: I am not sure there  
29 has been a change in the law. If there is one,  
30 it certainly does not protect us.







1 THE CHAIRMAN: We have had some  
2 evidence there was a certain ruling, having to  
3 do with franchises that worked on everybody  
4 in the industry in the United States. The  
5 word "franchise" became taboo. Do you know  
6 something about that?

7 THE WITNESS: I know that was  
8 always there.

9 THE CHAIRMAN: Is it a question  
10 of enforcement?

11 THE WITNESS: It was really not  
12 applied.

13 THE CHAIRMAN: Is that one of the  
14 reasons why this kind of clause no longer appears  
15 in the contract?

16 THE WITNESS: I don't know whether  
17 I can answer that, really. I think it evolved  
18 more or less from the fact that there was only  
19 one distributor in the town. I think that was  
20 the evolution more than the actual law itself.  
21 There was not freedom of a national distributor  
22 to move to another wholesaler as there had  
23 been before.

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1 THE CHAIRMAN: You have been here  
2 and have listened to the evidence in the past few  
3 days?

4 THE WITNESS: That is correct.

5 THE CHAIRMAN: Based on what you have  
6 heard, do you think you might return to the  
7 conditional contract the next time you have a deal  
8 like this?

9 THE WITNESS: No.

10 MR. CAMP: Mainly in the areas in  
11 which you operate in the United States, you don't  
12 have any competition there in the sense of  
13 competitive wholesalers, do you?

14 THE WITNESS: We do in Columbus  
15 but not in Battle Creek or Petosky.

16 MR. CAMP: How large is Columbus?

17 THE WITNESS: Metropolitan Columbus  
18 is 800,000.

19 MR. CAMP: And there are no other  
20 wholesalers?

21 THE WITNESS: Not in the sense that  
22 we are. We have what is known in the trade as a  
23 secondary wholesaler. We also have a secondary  
24 wholesaler company in Cleveland which we do not  
25 handle or do not choose to handle. We don't  
26 consider him to be him a competitor. He  
27 simply takes what he wants.

28 MR. CAMP: Possibly the same lines  
29 but different retailers?

30 THE WITNESS: No, generally it is on





1 the basis of obscenity or something of that type  
2 where we decline to distribute the publication,  
3 this fellow will take them. They secure  
4 distribution in some way.

5 THE CHAIRMAN: Mr. Sedgwick?

6 MR. HOLLAND: Mr. Chairman, just  
7 before Mr. Sedgwick starts, there is one further  
8 question that has occurred to me.

9 Q. You gave some evidence about a  
10 better price that you were arranging for your  
11 paperbacks. Were you able to arrange a better  
12 price for your magazines, or any magazines?

13 A. Yes.

14 Q. Do you remember what magazines?

15 A. Not specific lines but I  
16 believe some comics, some tabloids.

17 Q. And that would be with only  
18 certain of the distributors?

19 A. That is correct. Really I  
20 sense that you are seeking information bearing  
21 on the facts. Would it be proper for me to expand  
22 on that?

23 THE CHAIRMAN: We are here to  
24 ascertain facts and we would be pleased to have  
25 you do so.

26 THE WITNESS: I would like to expand  
27 on that because just on the surface it does not  
28 relate all of the story, but you must remember that  
29 the North American distributors as you name them,  
30 are basically national wholesalers. They are more







1       brokers in a sense, but they are brokers for  
2       which they take a percentage. I think historically  
3       in Canada, at least to my knowledge, as being  
4       international president and so forth, rates  
5       were somewhat higher in Canada than they were in  
6       the United States for the same publication.  
7       That came about, as I understand it, because of  
8       the exchange rate which, when I bought Windsor,  
9       was something like 8 per cent and, of course, in  
10      Canada we pay the American billing in Canadian  
11      funds.

12                   The North American distributor has  
13      to assume the exchange or some 8 per cent so that  
14      at least in justification of that at that time  
15      it historically has been that they absorb the  
16      exchange rate, whatever it is, and whenever the  
17      exchange rate levels off as it has most recently,  
18      myself, and I assume other Canadian wholesalers,  
19      are in a much more advantageous position to then  
20      negotiate a more favourable price.

21                   DR. JEANNERET: Who receives the  
22      differential if you increase the Canadian price  
23      in those circumstances?

24                   THE WITNESS: The North American  
25      distributors. Now, their specific percentages  
26      I don't know but that, again, was not on major  
27      publications such as TV Guide and Reader's Digest.  
28      I think their rate generally has been exactly the  
29      same. It is only on some publications that receive  
30      the major source of their income from circulation in





1 other areas and that factor was an important factor  
2 as far as the North American distributor was  
3 concerned, so that at least was the justification  
4 for the half cent or whatever it was.

5 DR. JEANNERET: You make a good point,  
6 you say the national distributor normally would  
7 never touch physically the product?

8 THE WITNESS: That is right.

9 MR. SEDGWICK: I have really two  
10 questions.

11  
12 CROSS-EXAMINED BY MR. SEDGWICK:

13 Q. Mr. Scherer, are you able  
14 to say about what percentage of your total paperback  
15 sales would be Canadian publications?

16 A. It is very close to the figures.  
17 Harlequin would be 12 to 13 per cent in units,  
18 somewhat less than that in dollar volume. However,  
19 I assume that you are saying Canadian paperbacks  
20 that are published or distributed by Canadian  
21 distributors?

22 Q. Yes.

23 A. I think it is important,  
24 at least in my mind, that we bring out the fact  
25 that there are many, many Canadian publications  
26 that are purchased by North American Distributors'  
27 headquarters in New York who have fantastic sales.  
28 Marshal McLuhan, for instance, comes to mind  
29 immediately.

30 Q. Costain?







1                   A.     Yes, so if you really want to  
2     get the true figure of Canadian publications,  
3     you would have to, I think, break that out. I  
4     don't think you can determine the level only from  
5     whom we receive a publication. It is the origin,  
6     the author and so on.

7                   Q.     But as to Canadian paperbacks  
8     published in Canada, you heard Mr. Romanez and  
9     I think he said they were less than 1 per cent  
10    of your volume?

11                  A.     I am sure of that.

12                  Q.     That would apply to you also?

13                  A.     Yes.

14                  Q.     And my only other question:  
15    When you were contemplating the purchase of the  
16    Chatham distribution enterprise or franchise,  
17    which has now been reported, did you, before  
18    you concluded any deal seek the approval or  
19    benediction of some of the principal distributors  
20    such as, for instance, Triangle?

21                  A.     We never concluded a deal  
22    so it was difficult for me to make any move at all.

23                  Q.     I see.

24                  A.     In the first instance we never  
25    even got beyond the first half hour visit in his  
26    office. When my range was \$85,000 his range was  
27    \$135,000 and there was no meeting of the minds  
28    whatsoever and I thanked him for his time and left.

29                  The second meeting never took place  
30    because of the timing, so whether or not we would







1 have done that is problematical.

2 Q. May we assume that if you had  
3 got so far as what has been called a handshake  
4 agreement, would you at that stage have sought the  
5 benediction of principal distributors such as  
6 Triangle?

7 A. Yes, I would.

8 MR. SEDGWICK: Thank you very much,  
9 that is all.

10 MR. HOLLAND: That is all, thank  
11 you.

12 THE CHAIRMAN: I just want to make  
13 a comment or two as I indicated, before we break.  
14 It relates to a matter which is of no criticism  
15 to anyone. It relates to the evidence that was  
16 given and my questions having to do with the  
17 cash contribution made by this last witness who  
18 has just informed us that he had brought cash  
19 from his United States operations to make that  
20 acquisition.

21 During the hearings that we have had  
22 prior to this time, and during these hearings,  
23 it has been drawn to the attention of the Commission --  
24 I am speaking at this point for myself, my colleagues  
25 can comment on that if they have anything to say --  
26 but it has been drawn to our attention on two  
27 occasions that American firms or their subsidiaries  
28 have borrowed funds from Canadian banks for the  
29 purpose of acquiring Canadian-owned corporations.

30 The first instance was McGraw-Hill





1 Canada Limited, a wholly-owned subsidiary of a  
2 large United States corporation, which acquired  
3 certain assets of Ryerson Press Limited. We  
4 understand that the purchase price was in excess  
5 of \$2 million, and that the cash required to  
6 complete the transaction was borrowed from a  
7 Canadian bank.

8 In the current hearings of the  
9 Commission we have been informed that the Molasky  
10 interests of St. Louis borrowed from a Canadian  
11 bank all of the cash required to purchase  
12 Canadian wholesale news distributors in London,  
13 Sarnia and Belleville. The amount for these  
14 transactions alone totals \$1,103,000.

15 There is no law in Canada which  
16 prevents the Canadian chartered banks from making  
17 loans of this nature. Indeed, because each is  
18 in competition with each other it can be understood  
19 that they would be prepared to make such loans  
20 against adequate security. Therefore, one cannot  
21 complain about the activity in this regard by any  
22 Canadian bank.

23 It would appear that the Parliament  
24 of Canada has not yet considered the enactment  
25 of legislation which would prevent Canadian  
26 chartered banks from lending to any foreign  
27 corporation or its subsidiary, funds for the purpose  
28 of acquiring Canadian firms or corporations.

29 Similar legislation has been  
30 enacted in at least one other country which, like



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Chapter XLII	625
Chapter XLIII	640
Chapter XLIV	655
Chapter XLV	670
Chapter XLVI	685
Chapter XLVII	700
Chapter XLVIII	715
Chapter XLIX	730
Chapter L	745
Chapter LI	760
Chapter LII	775
Chapter LIII	790
Chapter LIV	805
Chapter LV	820
Chapter LVI	835
Chapter LVII	850
Chapter LVIII	865
Chapter LIX	880
Chapter LX	895





1 Canada, has a shortage of domestic capital and  
2 relies heavily upon the continuing inflow of  
3 foreign capital for its economic survival.  
4 Without commenting upon the question of the  
5 desirability or the acceptability of a further  
6 enlargement of foreign control over Canadian  
7 businesses or industries it would seem clearly  
8 in the interests of Canada that should any such  
9 acquisitions take place they be through the use  
10 of foreign capital rather than the savings of  
11 Canadian people.

12 Now, that is just a comment.

13 MR. SEDGWICK: Mr. Chairman, could I  
14 add, I think it was in evidence that my clients  
15 when they purchased Metro, brought in cash  
16 \$1,950,000.

17 THE CHAIRMAN: As I indicated,  
18 Mr. Sedgwick, there is no criticism on the  
19 part of anybody in what I have said at all.

20 MR. SEDGWICK: I thought it was a  
21 criticism of the banking system.

22 THE CHAIRMAN: It was.

23 MR. SEDGWICK: Which I am inclined  
24 to join in.

25 THE CHAIRMAN: We will break for  
26 a few minutes.

27 ---Recess.  
28

29 MR. HOLLAND: Ronald Vaughan.  
30







RONALD VAUGHAN, Sworn.

EXAMINED BY MR. HOLLAND:

Q. Where do you reside,  
Mr. Vaughan?

A. Chatham, Ontario.

Q. You are a Canadian citizen, I  
believe?

A. Yes, sir.

Q. And you are the owner and  
Manager of Kent News Service?

A. Yes.

Q. Gross sales for Kent Service  
in the last fiscal year were \$290,229?

A. Yes.

Q. I am sure that you have seen  
Exhibit 3 which is the map of southern Ontario?

A. Yes.

Q. Is the geographical area  
serviced by Kent News Service correctly set  
out in Exhibit 3?

A. Yes, sir.

Q. Have you had in the last two  
years any negotiations for the sale of Kent News  
Service?

A. Yes, I have.

Q. With whom?

A. I have talked to Allan Molasky,  
Mark Molasky, Roger Scherer, Bob Scherer and





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Hugh Rennick of Thunder Bay.

Q. And he operates as a  
geographical wholesaler in Thunder Bay?

A. That is correct.





1 Q. And you heard the evidence  
2 of Mr. Scherer as to the negotiations that you  
3 had that fell through as of June 14th?

4 A. I did.

5 Q. Could you confirm his evidence  
6 in that regard?

7 A. That is correct.

8 MR. HOLLAND: Those are all the  
9 questions I have of this witness.

10 MR. SEDGWICK: I have only one  
11 question and only because of my hearing.

12  
13 CROSS-EXAMINATION BY MR. SEDGWICK:

14  
15 Q. Did you say your total volume  
16 was \$90,000?

17 A. \$290,000. We are the smallest  
18 company.

19 Q. Is it really?

20 A. Really.

21 MR. SEDGWICK: I have no other  
22 questions.

23 MR. CAMP: But profitable, small  
24 but profitable?

25 THE WITNESS: Yes.

26 MR. CAMP: You were able to make  
27 some profit even though you are the smallest  
28 wholesaler?

29 THE WITNESS: Yes.

30 MR. CAMP: So the profit is not







1           only to the largest?

2                       THE CHAIRMAN:   Thank you very  
3 much, Mr. Vaughan.   We appreciate very much  
4 your coming for that short bit of evidence. We  
5 thank you very much indeed.

6                       MR. HOLLAND:   Mr. Chairman,  
7 during the recess I had the opportunity of  
8 considering in some detail the evidence that has  
9 been adduced before this Commission, and also  
10 the further evidence that might be adduced.  
11 It is my view, as counsel for the Commission,  
12 that the evidence adduced to date adequately  
13 covers all of the points raised in the Commission's  
14 second interim report.

15                      In the circumstances, although  
16 certain other witnesses have been subpoenaed,  
17 it is not my intention to call these persons  
18 before the Commission to testify. I have no  
19 further evidence to call at this time.

20                      THE CHAIRMAN:   Thank you.

21                      Mr. Sedgwick, have you any  
22 evidence?

23                      MR. SEDGWICK:   I have no other  
24 evidence. I discussed with Mr. Holland just a  
25 few minutes ago, the question of my making  
26 a summation. It will be brief and, if I have a  
27 little time, it will be briefer, because I do  
28 want to quote accurately.

29                      Mr. Holland has suggested the  
30 Commission might be good enough to hear me at





1 10:00 o'clock Friday morning. That would  
2 give me tomorrow to read what I need to read.

3 MR. HOLLAND: I thought that would be  
4 convenient to the Commission.

5 THE CHAIRMAN: I think, Mr.  
6 Sedgwick, that would be convenient for us.  
7 What about submissions from Mr. Holland? Do  
8 you wish to make a submission at that time?

9 MR. HOLLAND: I would like to  
10 hear what my friend has to say first, but I  
11 think I would make a submission.

12 MR. SEDGWICK: I don't think  
13 I would say anything controversial.

14 MR. HOLLAND: I am not so sure  
15 about that. As long as he does not quote the  
16 Bible, Mr. Chairman.

17 THE CHAIRMAN: Give him a chance.

18 Well, now, on that basis, then,  
19 the procedure will be that we will adjourn  
20 for now and we will reconvene at 10:00 o'clock  
21 on Friday morning to hear submissions from counsel  
22 and we will then, as a Commission, undoubtedly  
23 make some consideration of all the evidence we  
24 have heard and on the basis of the submissions.

25 If I may, on behalf of the  
26 Commission, thank all those who have taken part  
27 and come to give evidence. We have appreciated  
28 the opportunity of hearing from each and every  
29 one, and it has been most interesting and most  
30 helpful to us. We are particularly grateful





1 to counsel for your participation in these  
2 proceedings. You have all been most helpful.

3 The Commission will adjourn this  
4 morning.

5 MR. SEDGWICK: Just before you  
6 adjourn, this morning Mr. Romanez gave me a  
7 copy of Fuddle Duddle, which I believe will be  
8 issued next week, and nine of the little  
9 paperbacks that are published by his firm, the  
10 Bodero Press. I spent my time reading one of  
11 them. I thought they might provide the  
12 Commission with some good reading.

13 MR. CAMP: How did Fuddle Duddle  
14 strike you?

15 MR. SEDGWICK: I didn't read  
16 that one. I read the one about Quebec.

17  
18 ---Adjournment  
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BINDING SECT. JUN 18 1973



